

TESTIMONY OF FORMER EMPLOYEES OF THE BANCA NAZIONALE DEL LAVORO

HEARING BEFORE THE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED THIRD CONGRESS FIRST SESSION

NOVEMBER 9, 1993

Printed for the use of the Committee on Banking, Finance and Urban Affairs

Serial No. 103-95



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1994

73-935 CC

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-043959-0

HOUSE COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

HENRY B. GONZALEZ, Texas, *Chairman*

STEPHEN L. NEAL, North Carolina
JOHN J. LAFALCE, New York
BRUCE F. VENTO, Minnesota
CHARLES E. SCHUMER, New York
BARNEY FRANK, Massachusetts
PAUL E. KANJORSKI, Pennsylvania
JOSEPH P. KENNEDY II, Massachusetts
FLOYD H. FLAKE, New York
KWEISI MFUME, Maryland
MAXINE WATERS, California
LARRY LAROCCO, Idaho
BILL ORTON, Utah
JIM BACCHUS, Florida
HERBERT C. KLEIN, New Jersey
CAROLYN B. MALONEY, New York
PETER DEUTSCH, Florida
LUIS V. GUTIERREZ, Illinois
BOBBY L. RUSH, Illinois
LUCILLE ROYBAL-ALLARD, California
THOMAS M. BARRETT, Wisconsin
ELIZABETH FURSE, Oregon
NYDIA M. VELAZQUEZ, New York
ALBERT R. WYNN, Maryland
CLEO FIELDS, Louisiana
MELVIN WATT, North Carolina
MAURICE HINCHEY, New York
CALVIN M. DOOLEY, California
RON KLINK, Pennsylvania
ERIC FINGERHUT, Ohio

JAMES A. LEACH, Iowa
BILL MCCOLLUM, Florida
MARGE ROUKEMA, New Jersey
DOUG BEREUTER, Nebraska
THOMAS J. RIDGE, Pennsylvania
TOBY ROTH, Wisconsin
ALFRED A. (AL) MCCANDLESS, California
RICHARD H. BAKER, Louisiana
JIM NUSSLE, Iowa
CRAIG THOMAS, Wyoming
SAM JOHNSON, Texas
DEBORAH PRYCE, Ohio
JOHN LINDER, Georgia
JOE KNOLLENBERG, Michigan
RICK LAZIO, New York
ROD GRAMS, Minnesota
SPENCER BACHUS, Alabama
MIKE HUFFINGTON, California
MICHAEL CASTLE, Delaware
PETER KING, New York

BERNARD SANDERS, Vermont

CONTENTS

	Page
Hearing held on:	
November 9, 1993	1
Appendix:	
November 9, 1993	95

WITNESSES

TUESDAY, NOVEMBER 9, 1993

Drogoul, Christopher, former manager, BNL-Atlanta	3
Ivey, Jean, former lending officer, BNL-Atlanta	65
Maggi, Mela, former money market trader, BNL-Atlanta	66
Sardelli, Luigi, former regional manager, BNL-New York	59
Vincenzino, Giuseppe, former employee, BNL	66
Von Wedel, Paul, former trade finance officer, BNL-Atlanta	58

APPENDIX

Prepared statements:	
Gonzalez, Hon. Henry B.	96
Drogoul, Christopher	112

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

Letters of Invitation	98
Answers submitted by Mr. Drogoul in response to questions on pages 20, 21, and 24 of the text of the hearing	148
Response of Mr. Rinaldo Petrignani to Chairman Gonzalez' questions (Mr. Petrignani was out of the country when this hearing was held and, therefore, was unable to comply with the Committee's subpoena)	154
Written responses of Mr. Sardelli to Chairman Gonzalez's questions	158
CIA Report, "Iraq-Italy: Repercussions of the BNL-Atlanta Scandal"	194
Judge Marvin Shoob's Comments on the BNL Case	200
BNL Internal Audit Documents Revealing Irregularities at BNL-Atlanta Prior to the FBI's August 4, 1989 Raid	234
Selected Exhibits to the Government's Sentencing Memorandum for Christopher Drogoul, September 1992	266
Henry Kissinger's comments at a meeting of BNL's International Advisory Board on May 4-5, 1987	282
Letter from Lloyd Cutler, Henry Kissinger's lawyer, to Chairman Gonzalez and Chairman Gonzalez' reply	315
Materials submitted by Mr. Sardelli	322
Materials submitted for the record by Mr. Vincenzino	330
The Banca Nazionale del Lavoro Investigation Report of the Independent Counsel—Part I	337
The Banca Nazionale del Lavoro Investigation Report of the Independent Counsel—Part II	533
Press Articles:	
<i>New York Times</i> :	
November 8, "Anatomy of a Coverup", by William Safire	678
November 7, "The President Was Very, Very Mad"	679
September 9, 1993, "Is The Fix In?"	681
August 24, 1993, "Government Denies Bush Armed Iraq"	682
September 30, "Rome Bank Linked To Atlanta Loans"	683

IV

Press Articles—Continued

	Page
<i>LA Times:</i>	
September 16, 1992, Page A5 (Washington Edition), "Bank Loans Tied to Financing for Scud Missile Project,"	684
September 13, 1993, "Reno Aide to Lead New Probe of Iraq Ties Before Gulf War"	685
September 29, 1992 (Washington Edition), "Italian Pressure to Halt Investigation of Iraq Loan Fraud Cited"	686
<i>USA Today</i> , November 8, 1993 "Book alleges deeper U.S. 'Iraqgate' involvement"	687
<i>Washington Post</i> , October 2, "Plea Agreement Withdrawn On Chief BNL Case Witness"	688
Political cartoons relating to the BNL scandal	689

TESTIMONY OF FORMER EMPLOYEES OF THE BANCA NAZIONALE DEL LAVORO

TUESDAY, NOVEMBER 9, 1993

HOUSE OF REPRESENTATIVES,
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS,
Washington, DC.

The committee met, pursuant to notice, at 10 a.m., in room 2128, Rayburn House Office Building, Hon. Henry B. Gonzalez [chairman of the committee] presiding.

Present: Chairman Gonzalez, Representatives Schumer, Kennedy, Klein, Watt, Hinchey, Fingerhut, Leach, McCollum, Roukema, Roth, McCandless, Linder, Knollenberg, Bachus of Alabama, Huffington, Castle, and Sanders.

The CHAIRMAN. The committee will please come to order.

We have a number of witnesses, and also the House will go in session at 11 o'clock, so we want to make sure that we take advantage of the 1-hour interim.

Today marks the Banking Committee's sixth hearing on the scandal involving the Atlanta agency office of the Italian Banca Nazionale del Lavoro. The committee's investigation of BNL originally grew out of my concern that our financial system was vulnerable to abuse by not only foreign banks, but the course of tremendous sums of so-called international funds through the arterial system of our banking and financial network, and the inadequate supervision of the Federal as well as the State regulatory authorities.

The committee's investigation revealed that foreign banks were subject to inadequate supervision and that an outmoded regulatory structure seemed to be the theme. These findings served as a catalyst for overhauling our system of regulating foreign banks. Foreign banks are now subject to far greater scrutiny by the regulator, but we still have some distance to travel.

The latest tally reveals that foreign banks command nearly \$1 trillion in assets in the United States, over 20 percent of the total banking system's assets.

The BNL scandal also serves as a shocking reminder of the ease at which our financial system can be manipulated. While it may seem hard to believe that a handful of employees of a small agency office like BNL in Atlanta could secretly loan billions to Iraq, the scheme was carried out with rather apparent ease.

There are several competing claims about the origins of the scandal and whether or not the BNL-Atlanta employees acted alone or as part of a broader covert policy involving the United States and Western European entities and their then tilt toward Iraq in the war that was taking place at that time.

One group that has not had the opportunity to tell their side of the story is the former employees. Today's hearing provides an opportunity to explore the means and motivations by which the former employees perpetrated the single greatest banking fraud in U.S. history. They will hopefully answer, once and for all, the question of whether or not they acted alone.

And with that, I will recognize Mr. Leach.

[The prepared statement of Mr. Gonzalez can be found in the appendix.]

Mr. LEACH. Thank you, Mr. Chairman.

Let me just say that the chairman of this committee deserves a great deal of credit for pursuing this investigation. I welcome the witnesses before us, although it is not a happy day to have them.

At issue are really two kinds of questions. One relates to simple bank fraud. How extensive and how pervasive was it? In that sense, it appears to be a very substantial bank fraud.

The second question goes to the constitutional process. If this bank fraud occurred with the winking of an eye, if not the intent of the administration in office at the time, then there is a constitutional problem when a foreign policy endeavor is advanced by allowing funds to go to a particular country for particular enterprises without congressional or constitutional authority. If that is the case, we have a far bigger story than simple bank fraud. Even though, as a bank fraud case, it is still rather dramatically significant.

I welcome the perspective of the witnesses and recognize that they are going to be under the gun in terms of consistency with their testimony over time as well as their perspective today.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Our first witness is Mr. Christopher Drogoul. I wanted to thank him for his willingness to appear. He is accompanied by counsel. But I wanted to advise that proceedings under the rule, that we will invoke under the House rules, rules 10 and 11, investigative hearings on the part of a committee, do not mean that these proceedings are either judicial or invested with any type of judicial trappings or power. After all, we have definite constitutional limitations. However, invoking rules 10 and 11, we will swear in the witnesses, and counsel is permitted to accompany the witness, not to testify, and such is the case where the counsel is readily available to counsel with his client. So, Mr. Drogoul, if you will stand and raise your right hand.

[Witness sworn.]

The CHAIRMAN. Thank you. You can, then, now consider yourself to be under oath.

I also wanted to thank you for having submitted your prepared testimony in writing. It is something that we deeply appreciate when we have hearings of this kind, and we ask the witnesses, if possible, to prepare their testimony.

So without any further ado, we will recognize you, Mr. Drogoul, to present your testimony.

Now, let me say this, that unless there is objection, your written testimony will appear in the record exactly as you gave it to us,

and then for the purposes of your verbal or oral presentation, you may wish to summarize, or you may proceed as you deem best.

**TESTIMONY OF CHRISTOPHER DROGOUL, FORMER MANAGER,
BNL-ATLANTA**

Mr. DROGOUL. Well, first of all, I wanted to thank you, Mr. Chairman, for giving me the opportunity to appear today. That I think needs to be said first and foremost.

As to my statement, I think the document that you have is practically the document that I have, except that we have added a few more elements that may be of interest to the committee. What I submitted is a long document, so if you feel it is not necessary for me to read it in its entirety, I can abbreviate it.

The CHAIRMAN. That will be fine.

Mr. DROGOUL. All right. So I will just abbreviate it.

My name is Christopher Drogoul, and I think before I start to read the salient points from my prepared text, I need to make the following points which we can address later on in the statement.

BNL-Atlanta was no more, no less than a tool of the United States and the Italian Government used to carry out foreign policy toward Iraq and other countries.

To look at the BNL matter and to consider it to be strictly a banking matter is a big mistake. There were so many different elements involved in the business that we were doing that one has to consider it to be a foreign policy matter and not a banking matter. I think that addresses to some extent Mr. Leach's comments.

I would like to highlight four items to support the position that I just mentioned.

Number one, just prior to the November 1988 Presidential election, I attended a dinner held in Washington DC at a Lebanese restaurant, together with my colleague, Mr. von Wedel, and where there were gathered representatives of both the Iraqi Government and the United States to discuss taxpayer-backed loans to Iraq.

I heard a USDA official urge the Iraqis to sign up for more CCC-backed loans prior to the election, saying that in the event that Michael Dukakis were elected and George Bush defeated, then the Democrats, quote, "will cut you off," unquote. So the message to the Iraqis was clearly, come to Washington, sign up for the program prior to the elections in November of that year. That signaled to us that we were talking about politics more than just grain, grain guarantees that were being issued.

Number two, a fairly close friend of King Hussein of Jordan who acted as a middleman in all of the transactions that we were involved in, an individual by the name of Mr. Wafai DeJani confirmed to me that he had an ongoing relationship with the United States intelligence agencies. I don't mean to say that he worked for the CIA or any other intelligence agency, but I would choose the word "with," I think that is the word he chose. He said I work with those agencies when it is convenient and necessary for us to do so.

This past weekend I remembered Alan Friedman's book entitled "The Spider's Web," which I think is coming out this week, and he details Mr. DeJani's relationship with the CIA, and apparently the former NFC official confirmed the statement that Mr. DeJani himself made to me.

Mr. DeJani confirmed in his—to me also that he had a close relationship with the State Department, and, of course, the USDA as well. On one occasion in 1989 following the search of BNL-Atlanta, I was present with Mr. DeJani at his home in Georgetown and I noticed that he received a telephone call from Paul Dickerson of the USDA. In that conversation, Mr. Dickerson told Mr. DeJani that the White House was only going to approve \$500 million of taxpayer-backed loans for the coming year, rather than the original \$1 billion amount that was requested.

Mr. DeJani told Mr. Dickerson that the figure was unacceptable to the Iraqis and to provide anything less than the \$1 billion would result in complete rejection. That to me signaled that Mr. DeJani had a close relationship as well with the USDA, which I knew all along from previous conversations.

I think the other point that I need to mention is that I came to understand that Kissinger Associates, and more particularly Henry Kissinger, was the architect of the United States foreign policy accord to Iraq in one sense. I will elaborate on that point later on when I go into specific details.

The last point is that in 1989 when I was with the Director General of—or one of the Directors General of the Ministry of Industry in Iraq, I noted to him that we were being—we seemed to be trailed and followed by a lot of intelligence people. I quite bluntly asked him, I said, well, you know, it seems that we are being followed by people, and it seems that we are being watched. There appear to be intelligence people in the shadows.

Previously, when I dealt with CCC transactions exclusively, I didn't notice that. We were doing business with the big grain companies and others, but I didn't notice the shadow activity. Once we started to become involved in the medium-term loans, I clearly identified shadow activity and Mr. Ali said to me in essence, I don't know what you are worried about, we have been working with the U.S. intelligence community, and specifically, he said, the CIA for a number of years and they follow our activities on a regular basis. He seemed to suggest that I was being silly to even mention the matter.

So from that little conversation, as well as with others, I realized that what we were doing was somehow being tracked by the U.S. intelligence agencies.

I have been hopeful over the past 4 years that I might get an opportunity to speak concerning all of these matters, and really I have not had the chance to do that, and I—although I had intended to do so at my trial, I will do the best I can at this point, to be as forthright and complete as I possibly can.

I was the manager of the Atlanta agency of BNL from 1984 until 1989, as the committee probably is aware by now. I managed the bank in accordance with my instructions from my superiors in Rome. When criminal charges were being considered in connection with the activities of that branch, the bank took the position that it was a victim of the actions of the Atlanta agency. That is another thing that galled me, it really, it struck me.

At the time of the search, I was in France on vacation. After learning of the search, I returned immediately to the United States to deal with the potential problems which might arise from the

search at the Atlanta office. Just prior to my return, I met with representatives of the Iraqi Central Bank who assured me that I should not be concerned at all.

One of the questions that was raised by the Italian Senate was why I went to visit the Iraqis. Why didn't I talk to the Americans? Why didn't I speak to the Italians? Well, it was clear to me by then that the Italians and the Americans knew clearly what was going on, that the search had taken place, and it seemed to me that the only people who potentially were not aware of what was going on were the Iraqis, and so I felt as a courtesy they needed to be apprised as well. So that was the purpose for that little trip. And I will talk about this later on.

But in the debriefings with Mrs. McKenzie and the Atlanta task force, there was an attempt to put an entirely different cast on that meeting.

It had been the bank's position to me over the years that lending between the Atlanta agency and the bank was known to the United States, and that any irregularities would be resolved with the payment of a fine by the bank. Indeed, I was assured of that in a conversation that I had with Pietro Lombardi in New York when I returned first to New York, after the raid.

But in addition, I was also assured by my knowledge that the General Director of the bank, Dr. Pedde, and other officials of BNL with whom I had had ongoing discussions about the Iraqi business, knew of my activities, discussed my activities, and would in no way all of a sudden turn their backs on me. But in fact, that is what happened.

After the search of the bank in August, I became aware that the investigation by the U.S. attorney's office in Atlanta was focused on my staff and myself.

It has always been my view that the political power of the United States and Italy reached right down to the U.S. attorney's office in Atlanta to ensure that only those associated with the Atlanta agency would suffer the consequences of the revelation surrounding the search of the agency in 1989.

I really don't know whether Mr. Greenspan's personal visit to Atlanta shortly after the search or whether the subsequent direct contact by the Bush White House solely contributed to the bias by the lead prosecutor in Atlanta, but certainly there was an impact.

The search revealed that the Atlanta agency had been funding a number of countries, not just Iraq, but the Soviet Union, Iran, and other countries, in part what some have characterized a gray book, or unofficial accounting. While some might view that activity as reflecting criminal conduct, I would have to say that it was not, and it was really something that you have to look at in the context of what was taking place in relation to BNL-Rome's directives to us.

The need to hide from some officials, particularly our New York office and its general manager, Mr. Sardelli, our activities led to this recordkeeping process, which I will explain, if you wish, later on.

With the transferral of Mr. Sardelli in the spring of 1989 back to Rome, and with the appointment of Mr. Lombardi to New York, Mr. Lombardi being one of the principal people in Rome with whom

I was having a dialog about the Iraqi loans, we were now coming into a position where many of the transactions which were off book were now being placed back on the book. I was getting the formal approvals that I had not received in the past 2 years on a piece-meal basis and we were working toward putting those loans back on the books. That was done with Mr. Lombardi's recognition and approval.

The search, unfortunately, prevented this from occurring. I am aware that this process could have prevented the State and Federal banking authorities from learning the full nature of our lending. However, if any legitimate audits had been conducted, the full scope of our lending would have been easily uncovered, for we were not—because the records of the branch reflected much of the activity that was taking place regarding Iraq and other countries.

It was never my intention, and I can also speak for the people in my branch, it was never their intention to mislead the U.S. banking authorities from knowing the extent of our activities. Instead, I acted to carry out the objectives of BNL and what I understood were the objectives of the Italian Government with regard to Iraq. And I believe those were also the objectives of the United States as a result of the interactions, some of which I have described a few moments ago.

I have, as you know, been confined to a prison cell since April 1992, stripped of my assets and compelled to have my wife and children live on welfare. And during that period of time, I have had a considerable amount of time to consider the events that took place between 1984 and 1991 when I was indicted on the 347-count indictment, which you are probably familiar with.

It is my view that the local United States attorney's office was overwhelmed by political pressure by the United States and Italy, by the law firm of King and Spalding, and to a large degree by the lack of a competent staff to investigate and understand really what had occurred. Because what had occurred was not properly a bank fraud; it was more a foreign policy fraud, if I can use that term.

To begin to understand the Atlanta agency, one must understand really what Banca Nazionale del Lavoro is, understand its political relationship to the Italian Government, and also one must understand how Italy conducts itself in business.

The Italians are not at all similar to Americans when it comes to conducting business. They have a little bit of an Asiatic or an Oriental view that perhaps is historical and cultural. But in Italy, as you know, there was ongoing corruption, and the official mechanisms of government, including BNL, are used by politicians and political parties to further the interests of those parties and the individuals in Italy. That has been demonstrated in the past 1½ years by the Clean Hands scandal that has been evolving in Italy.

Whether or not the activities of BNL-Atlanta enriched any of the Italian political groups, I really don't know. I cannot say. But I was aware of a certain give and take between the political parties as it related to our Iraqi activities. I think that is something that should be explored further. But it is a very sensitive issue, especially in Italy, as you can well imagine.

I really don't want to talk too much more about Italy, but if you have any more questions regarding how matters developed with re-

gard to, or if you have any more questions regarding the Italian's involvement, political involvement in the BNL affair, I would be happy to try to answer them.

I do want to say that I am disappointed, but not surprised, it is understandable that Dr. Pedde and the other senior officials at BNL who encouraged and endorsed the actions of the Atlanta agency have taken the position that they knew nothing that we were doing. I am not so unsophisticated to realize that this international drama that occurred involved small, insignificant players in Atlanta, and it seemed that they were sacrificed in the interests of major government policy. I was aware at the time that the policy of BNL was to further the foreign policy concerns of both the United States and Italy.

I am sure also that the committee is aware, following my counsel's subpoena to former President Bush and other officials of his administration, that the government approached us about a plea to end this matter. Recognizing that my trial would be postponed until at least mid-1994, I foresaw myself again sitting in jail waiting interminably for this to end. And so really, at the pleading of my wife and in consideration of everything, the plea agreement that I agreed to accept was entered into really to spare my family any more grief.

If you wish, I will try to answer the questions that you posed to me a few weeks ago, and I will make these brief, because you probably have some questions yourself.

You asked me what my duties were at BNL. I can very easily tell you what my duties were, but I think it is important for you to understand the background of the people who were working at BNL in Atlanta.

Were they really bankers? Were they really international bankers? Did they really have the exposure and the sophistication to do the type of business that they were engaged in?

I was hired in 1981 as an assistant vice president, and almost junior lending officer at BNL. And within 2 years I found myself as a first vice president and manager. I was flattered, no doubt about it, but in hindsight, I didn't have the administrative experience, the managerial experience or even the lending experience to do the task that was properly requested of me.

I would choose to say also that the people in my office had credentials, but they were not the—the credentials that they had were not suited to the positions which they filled. So really, the office was not comprised of a bunch of sophisticated professionals; it was comprised of a group of people who were well intended, but did not have a lot of experience.

When the branch started to fall into international lending, we really were out of our league, with exception perhaps of Mr. von Wedel, who had spent 20 years technically handling letters of credit, but not engaged in international lending.

I have many times asked myself why someone with little lending experience and no managerial experience was appointed to the position of manager at BNL-Atlanta. And I can only suggest that at the time I was the only one who was perhaps remotely presentable for the job, since the competent Italians shied away from taking the Atlanta stewardship and there were no Americans in the orga-

nization who were available to be appointed at the time. So I would have to say that I received the position by default.

Officially, the duties of a branch manager are administrative, to ensure the smooth functioning and appropriate development of the branch's activities in its designated nine-State business development territory which we had.

However, since the branch was constituted with a very small capital base of only \$2 million, sufficient personnel to properly operate the branch were not hired. So employees filled multiple positions. The manager was also a business development officer, a business development officer was also the credit manager, the support trader was also a business development officer, a letter of credit administrator was a business development officer. The operations officer was the controller, and so on and so forth.

In reality, BNL-Atlanta was never truly conceived of to be a branch. I think it was designed instead to be a quasi-autonomous business development office, operating under New York's umbrella. Whereas every other branch in the United States operated within its established geographic territory, BNL-Atlanta historically operated throughout the United States, and eventually throughout the world.

While every branch, for example, Los Angeles, Miami, Chicago, had a designated territory inside the United States, we found ourselves traveling all over the United States to do business and then to Geneva, to Budapest, to Belgrade, to different parts of Iraq, to Oman, to Turkey, which was very unusual.

I would say also that it was common knowledge throughout the BNL system in Italy and throughout the world that BNL-Atlanta officials traveled in other branches' territories, developed business in those geographic zones for the benefit of BNL-Atlanta, as well as the local branch and for the head office.

Thus, when BNL-Atlanta traveled to Geneva to develop commodity business with the international grain traders based there, it was common for BNL-Atlanta officers to find a way to develop business for the Geneva branch as well.

Since most of the Atlanta branch's business involved head office banking relationships with the central banks and the principal commercial banking institutions in Eastern Europe, the Middle East, and North Africa, it was common for Atlanta officers to use meetings with those institutions as forums to develop opportunities for the correspondent banking division at the head office, which means, of course, that the head office was fully aware of our activities.

Ted Monaco's statement to the effect that he was not alarmed at seeing me in Baghdad is in a sense very true. Ted Monaco was in charge of the bank's correspondent banking division in the Middle East. He and I happened to bump into each other in Baghdad and he testified before the Italian Senate committee that it was not unusual to find me roaming the globe. That was just an example of how Atlanta had—I don't want to use the words "formal authority," but had the opportunity to travel and we were not stopped at all.

To summarize my activities, and the activities of the branch, therefore, I would say that officially I was the senior administrator of the Atlanta office, but in reality I was a senior business develop-

ment officer of the bank based in Atlanta responsible for development of the bank's multinational business.

Atlanta, in a sense, was irrelevant to our activities. Indeed, my general manager, Dr. Pedde, repeatedly emphasized to me the need to develop strong ties to European and U.S. multinational corporations for the bank. He talked about U.S. companies throughout the United States and European companies inside the European Community.

If I am not mistaken, Dr. Pedde eventually issued a dictum stating that the officers responsible for the development of assigned business should travel to develop such business, wherever that business was located, rather than the head office officials. So in a sense, he was giving authority to officials like myself developing business to go anywhere we felt necessary to develop the business that the bank needed.

The second question that you had was related to how I would describe the performance and the quality of the various examiners assigned to audit the bank. Here, really, I tried to be objective, but I have thought about your question and I think there are many different ways to answer it. I think it is inaccurate to consider the visits—and I choose the word "visits"—by the Federal Reserve Bank, the State banking department and Pete Marwick to be auditors of the branch's records, for they were not.

This statement is not intended to insult any supervisory agency. It really isn't. Simply stated, the established parameters of those entities' audits did not call for a comprehensive audit. The task of the Fed was simply to confirm that the State of Georgia audit revealed no major problems. And thus, their audit of BNL usually consisted of a 1- or 2-day review of the State of Georgia's preliminary results, followed by a cup of espresso in the manager's office.

We had a nice little conversation and after 15 or 20 minutes, they went back to the Federal Reserve Bank building. The State of Georgia's examiners developed credit folders in lending to a particular company, a financial institution or a country, without any thorough confirmation of the details reported on the branch records.

The role of the State examination was not designed to verify the branch's records; that responsibility apparently rested on the shoulders of the bank's internal team of inspectors.

The Pete Marwick examination was nothing more than an exercise to place an independent auditor's imprimatur on the branch's yearend results, and Pete Marwick's audit consisted of a verification of the assets on liabilities recorded on the branch's books at the close of the financial year, without any examination of the underlying records.

So in the case of the Pete Marwick examinations, by the 3rd or the 4th year of such a review, the procedure became so banal that neither Pete Marwick nor BNL-Atlanta considered the audit to be anything more than an exercise in protocol.

The audit performed by BNL's internal auditors was comprehensive and thorough. I believe it was the Italian Senate that used the word "tamed," and I would have to concur. Had that audit not been tamed, all the branches' activities would have been revealed.

I mean, I really have to look back now and I almost laugh, and I don't mean to be—I don't mean to laugh. But they dug and they dug and they dug, but they didn't look at any of the documents, any of the documents, that would have shown any of the branch's Iraqi activity.

Had they looked at the Morgan Guaranty statements, had they looked at the Rafidain Bank statements, had they looked at the Central Bank of Iraq's records, they would have seen the extent of the activity taking place at BNL-Atlanta. But for reasons that I really could not explain, during the first audit, they didn't do that. By the time the second audit took place, I realized that they—well, I concluded that they were not to look at those things.

So I consider the internal auditor's omissions to be an intentional oversight. But by 1989, I assumed that BNL's own internal audit team would not uncover any wholesale—there would be no wholesale unearthing of the relationships between Atlanta and Iraq.

Having made this statement and seeming to perhaps disparage the auditors in Atlanta, though, I reflect upon many conversations that I had with bankers from New York, my colleagues in the banking community in New York, and I remember many conversations where they constantly spoke to me about the New York audits that they had to endure. For they were subjected to numerous State and Federal agency audits. All of these bankers discussed the thoroughness of the New York audits, so perhaps the Atlanta auditors simply viewed their responsibilities differently than those of the New York auditing teams.

Personally, I don't believe that the activities of the Atlanta office could ever have developed in New York, because in New York our activities would have been exposed instantly by the Fed, by the State, probably by our own bank's internal auditors.

Your next question really related to the extent of knowledge that BNL-Rome officials and BNL-New York officials had regarding our CCC and medium-term lending credits to Iraq.

I think it is important to understand that in most instances, approvals to extend credit or to engage in a transaction came in verbal form from BNL's regional management in the form of a telephone call, and sometimes directly by a telephone call from Rome.

The bank is structured in such a manner that it is really impossible to put all the paperwork through and obtain a timely response for a customer. Traditionally, what we would do if we had an opportunity to lend to a customer that we felt was creditworthy and worthwhile, we would telephone or communicate by Telex, usually by telephone, our regional office in New York or directly our people in Rome, and lay out the transaction to them and wait 24 hours for a reply.

I think what I would like to do is illustrate only one example, though, and this is the one that relates to our initial Iraqi transactions with the CCC. As is well documented, we received our first formal approval for \$100 million from Rome, and we were permitted to engage in lending to Iraq under the CCC Program.

The second year when I was in New York in a conversation with Dr. Florio at a dinner that we were both attending, we were discussing the impact upon the branch that the CCC Program had the previous year. In particular, we were discussing the prior year ease

approvals for the extension of Mexico for the CCC and Iraq, and I had indicated that given the low, low risk associated with these transactions, we at BNL-Atlanta wished to continue that same lending to those countries as well as to others.

I had mentioned to Dr. Florio that the CCC had recently accorded significant guarantees to Mexico and to Iraq for the United States Government's new fiscal year, and on this occasion I specifically sought his verbal approbation to lend anew to those countries. His reply, which I remember quite distinctly, is that although he too saw little risk in lending under CCC, the International Division of BNL, and he especially, were under pressure from political forces, at that time unknown to me, and that those forces would use any increased lending activities to Mexico as a weapon against the International Division, and against him in particular, since the New York branch had in years past lent substantially to the Mexican public and private economic sectors.

On the subject of Iraq, Mr. Florio made no particular objections to further lending commitments to Iraq under the CCC Program and inquired about my specific intents. Duly noting that BNL-Atlanta had not been successful in obtaining full utilization of our facility in favor of Rafidain Bank, and that we needed to offer a considerably larger facility than that of the previous year in order not to be squeezed out by the banks involved the prior year.

To sum it up, I don't want to go on and on, but to sum it up, Dr. Florio, in essence, told me to go ahead and to follow up later on with a formal request to make the line available to us.

It took us about 4 months to finally do that. And by the time we had done that, Rome had changed its mind with regard to Iraq in general. And even though he knew I had made the commitment, because my assistant, Mr. Galiano, in my office was having a dialog with his counterparts in Rome about the proposal itself, Dr. Florio told us that we couldn't any longer lend to Iraq. But we had already made the commitment. And so we continued to lend.

Because when you have a relationship with a government, you just can't all of a sudden pack your bag and walk away, especially if we represented the Italian Government, which I felt that we did.

I would say that in hindsight I should have called Dr. Florio directly and confronted him with the situation, but as in the past, I assumed that the delay that Rome was referring to would be temporary since Rome had always in the past delivered upon our requests, although many times 6, 8, 10 months later.

By the time I got to talk to Mr. Florio later on about the entire matter, Mr. Florio's position was on the line. His entire division was just about to be disbanded. And when I did approach him finally, he told me that the matter of Iraq was insignificant in comparison to the fate that was awaiting the International Division in several months. Indeed, several months later, with the new administration that came in as a result of a change in government in Italy, Mr. Florio was gone, the International Division was gone, the building that the International Division was formerly housed in was up for sale, and there was a complete structural change in the bank.

We were completely perplexed at that point, and didn't know what to do, but we do know that we had a relationship with the

Government of Iraq, we had a relationship with the USDA, and we continued to lend. We did not, however, hide the loans at that point. We just continued to continue lending and reflected the loans on the books well in excess of the established credit line.

In addition, once the change in Rome had taken place, there was a change really throughout the North American area as well. My previous general manager, Mr. Guadagnini was asked to leave, and Mr. Sardelli was appointed as his successor.

Once Mr. Sardelli was installed as the new North American manager, it was unclear to me, as well as to all the branch managers in the United States, whose political interests Sardelli represented, and because he was critical in the extreme of Mr. Guadagnini's prior management team, its lending activities, and its administrative practices, as well as its objectives. In concert with Dr. Pedde, he seemed delighted in criticizing the network in North America. So frankly we held back a little bit in Atlanta. We didn't know how to deal with the situation.

After a period of months, however, we made a strategic alliance with Dr. Pedde, who informed us that we should deal directly with Rome and not with the regional management in New York, except for administrative matters. And so from that point on, our relationship switched from being a relationship of a small branch to a larger branch in New York to being a branch that reported to Rome. So our dialog at that point became one with Rome.

Throughout the course of the following 2 or 3 years, our activities with regard to Iraq, with regard to the loans that we were engaged in, were well-known to people in Rome. I will discuss the names of the people and the way in which they knew later on when you ask me questions.

I am going to try to shorten this a little bit for you, Mr. Chairman, because I know you have other obligations.

The next question you had asked whether or not we had any reason to believe that any part of the United States, Italian, or U.K. Governments were aware of the CCC or MTL loans to Iraq prior to the BNL raid on August 4, 1989.

I think I addressed that in my opening comments, but there are a few points I would like to address. Number one relates to the activities of Matrix-Churchill, which was an Iraqi company purchasing technology for the Government of Iraq and the activities of its president, Paul Henderson. Paul Henderson, as you know, was the president of Matrix-Churchill; he is an Englishman, and as you also know, he was or is linked to MI5 and MI6, the British intelligence services.

On visits that I had, and I don't want to use Mr. Henderson's name here because I did not have conversations with him about this, but on visits to London that I had with Mr. Habobi who ran TDG and Matrix-Churchill, it was made plainly apparent to me that the United States intelligence services, the English intelligence services, and he mentioned—he didn't mention the Italian intelligence services, he just mentioned the Italian Government—were aware of the activities in which we were all engaged. I can answer more questions, but I thought I would say that briefly.

As far as the United States, I think I also touched upon that. All our loans—all of the loans that we had regarding the CCC were re-

corded by the USDA. On many occasions when we were at delegation meetings in Washington at which the Iraqis were present, there were always people from the Commerce Department participating in those negotiations.

In addition, as I mentioned before, Mr. Wafai Dejani was clearly aware and close to people at Commerce, State, and Agriculture, and he made me aware that the State Department and Commerce and Agriculture were knowledgeable about our activities.

As a followup later on, you may wish to ask me questions about Mr. Toler, Mr. Chandler, and others who became involved, who are people who represented themselves to be with the U.S. intelligence services, and who were part of what I will call that shadow group that came in to BNL once we engaged in medium-term lending activity, not the CCC activity.

I think another important thing to mention is that every time that I traveled to Baghdad, I received telephone calls from Mr. Larry Panasuk's secretary, who was the United States agricultural attache to the United States Embassy in Iraq. For some reason, although I had never contacted him, he was very familiar when I made trips to Baghdad and I never told the USDA that I was making those trips; I just made my trips. He knew in advance that I was there and he tried to contact me on many, many occasions. Somehow he knew.

I have no evidence that either Ambassadors Newton or Glaspie knew of the purpose of my trips to Baghdad, but I was introduced to both while I was in Baghdad, once at a luncheon hosted by the Canadian Government and another at a reception in 1989 where I was introduced very briefly to Ms. Glaspie.

I think when you put all of these factors together and you put the names of all of the people together who were involved with the United States Government, and when you consider the fact that there was so much telex traffic, so much telephone traffic between Iraq and the United States, it becomes clear, certainly we felt in Atlanta that the United States knew everything that we were involved in.

I also believe that the foreign policy of the Reagan and Bush administrations' favored Iraq, and that the CCC Program was a vehicle used to further that policy. This was understood to me and made clear to me in a comment by the USDA official who told the Iraqis just before the 1988 Presidential election that the Iraqis needed to come to Washington to finalize their allocations prior to the elections.

It is also my belief that many of the companies doing business with Iraq under the medium-term or Industrial Loan Program had relationships with the intelligence services. Among these companies were Lummus Crest. An individual there related to me that he had relationships with the intelligence services, Hewlett Packard, Bechtel.

I am aware that an individual by the name of William Muscarella was visited by the CIA in connection with his activities to build a carbide plant in Iraq.

So when one puts all those factors together, we felt, I will use the word "comfortable," that the U.S. Government was aware of our activities from the beginning.

Your next question asked whether or not we had any reason to believe that the commodities purchased by Iraq with CCC-guaranteed loans were delivered for military goods.

To be honest with you, at the time I really didn't think about it. I mean, I thought that the CCC Program was a CCC Program and that we were shipping commodities, especially when you consider that we were shipping grain not just to Iraq, but to various different parts of the world under the CCC Program, whether it was Yugoslavia or Turkey or Algeria.

But I have had occasion—first I will say it is not inconceivable, given the way the goods were shipped and then transshipped, that such a practice could have taken place. But recently I have learned that a BNL executive in Italy acknowledged that such activities were taking place. More than that, though, I really cannot comment.

I think it is important also—my counsel has just mentioned to me—I found it peculiar, it was not peculiar to find a company like Cargil or Continental Grain or Louis Dreyfus doing business under the CCC Program. But as the years progressed in Iraq, we found all sorts of little companies that we knew nothing about, but once we explored them, found that they had industrial business and no agricultural business, and all of a sudden now they were involved in the CCC Program to Iraq. We did find that funny. That is very true. And I think that that is something that needs to be looked at. And if there is any place to find anything, that is probably where you will find it.

Your next question related to any knowledge that we may have had about BNL's relationship with Kissinger and Associates. You asked also whether or not we had any direct contact with Kissinger and Associates, or whether anyone else at BNL ever discussed the CCC loans or MTL loans regarding Iraq with Mr. Kissinger.

Again, I would have to say that my awareness of what Kissinger and Associates knew was developed probably after 1986. I was made aware on a trip to Italy where I attended a business development meeting for the international managers that Mr. Kissinger was a member of the bank's advisory board. At that time, I think shortly after he was appointed, he gave a nice little speech to the assembled crowd in Venice, and that was the first little trigger that went off in my head.

Following that, as we became involved in the medium-term lending, it became clear to us that the people at Kissinger and Associates were somehow assisting clients of Iraq in further developing business.

On one occasion, in fact, I remember that a member of Kissinger and Associates went to Iraq, if I am not mistaken with a member of the Iraqi-American Business Forum to discuss business relationships and the furtherance of business ties between the two countries.

So by the time we moved into the 1988 period or early 1989 period, it was fairly clear to me that Kissinger and Associates' people were involved in some way in trying to enhance and develop a relationship between Iraq and the United States. I really shouldn't go farther than that, because the rest is probably speculation.

The other way in which we were familiar with Kissinger and Associates was through an individual by the name of Lawrence Eagleburger, a name that I think is familiar to you. We in Atlanta developed a relationship with a Yugoslav bank by the name of Yugoslaska Banca, which eventually opened a branch or a subsidiary, I should say, in New York. I was familiar with Mr. Eagleburger's name, of course, through his prior activities when he was in the State Department as Ambassador to Yugoslavia. But when I spoke to the people at Yugoslaska Banca in Umana and in New York, they were very clear about the role that Mr. Eagleburger played in helping them establish their subsidiary bank in New York.

I don't want to suggest from that that there was anything wrong with that. I am just trying to tell you that that was something that was made very clear to us.

I think the other thing that I should mention is that again, in a conversation that I had with Mr. DeJani, who was a person who knew the circles of Washington, he noted to me in 1989 when I highlighted the point that Kissinger and Associates' people seemed to be in every—not in every, but in many of the transactions involved in medium-term loans, that Kissinger, of course, he said, is the architect of foreign policy in the United States. You know that. That was his statement to me.

So again, when you put all of those facts together, one can realize that the Kissinger group had a certain influence on what was taking place.

Your next question relates to the Justice Department's handling of the BNL investigation, why I withdrew my original plea agreement and whether I have any comments on Judge Lacey's BNL report.

Well, I could go on on that subject for a long time. But I think the first thing I need to say is that when I returned to the United States in 1989, I really was prepared to discuss openly with the task force the matters involving Iraq and BNL, but was not really able to. And I would say in fairness to them, they did not want to talk about the issues at that time, because they didn't know enough about what they were investigating.

But by the time we moved from the initial stages of the search in August to maybe November or December of that year, it was clear that they had taken a position. I never really understood—to this very day I don't understand why they failed to look at the bank and failed to—and sought to focus exclusively on BNL-Atlanta employees as the people who had conceived of the problem, initiated the problem, and orchestrated the problem in Atlanta. They really had, but to look a little bit further at the documentation between BNL-Atlanta and BNL-Rome to see the pulse of what was taking place, and they never did that. They never really went to interview the people, not that I expected the people in Rome to be as forthcoming as I would have liked, but they could have gotten a better sense of what was taking place had they done that. So in that regard I was really very disappointed about the way the thing had developed.

In 1992, I attempted to cooperate with the U.S. attorney's office after pleading guilty. And this is a question that you specifically

asked me and you asked me why I pled guilty if indeed I was not guilty.

The explanation is really quite simple. Once again, I had been jailed with no hope of bail, and I had been relegated to a Federal defender to represent me in a very complicated case. I had no assets, I owed my previous attorneys several hundred thousands of dollars. My Federal defender was a very nice person, competent in her own right in many areas, but after 1 year she had a hard time understanding what an international letter of credit was.

Faced with the view that my defense team would really not be able to understand at all what it was that we were involved in, and given the proposal by the U.S. attorney's office to plead guilty and cooperate, in an offer to receive a reduced sentence, I went down that road initially. It was my intention really to cooperate and explain some of the things that I have explained here today to you.

Unfortunately, by the time 1992 rolled around, the task force at the U.S. attorney's office in Atlanta had formulated a view, cast in stone, and would not consider any changes to that view. Moreover, when I was attempting to cooperate, they asked me to tell them things that they knew, I believe, and that I knew were not correct. And for 4 months or 5 months we went down the road where I was saying, But that is not correct; you have to look here, you have to look there. And their reply would be, Oh, no, no, Mr. Drogoul, you misunderstood. You don't know that for a fact. This is what took place, and this is what we want you to say. We don't want you to say this. But can't you see that this is what took place? This is what took place.

Finally, after several months of that kind of conversation, I contacted my sister because I was very upset. There was no way that I was going to stand up and give credence to a story that I felt was untrue. And fortunately, my sister was able to contact a noted attorney in Atlanta by the name of Mr. Bobby Lee Cook, and I think perhaps the rest is history.

He brought forth several documents that showed that the government's case was really not as strong as they suggested. It was a very—I was very fortunate, to be honest with you. I was very fortunate. And I don't mean this to praise you because I am here in front of you, but I have to say quite honestly and openly that if it were not for your efforts, if it were not for the efforts of Judge Shoob, if it were not for the efforts of Mr. Cook and a few others, I really doubt that this entire matter as it relates to me would have ended up as it has. I really believe that I would have been locked away forever.

So I have to thank each and every one of you for that, honestly.

There is one more thing that I should mention and then I will wrap it up for you. I think also I need to discuss for you the issue of the bank's role with King and Spalding in trying to influence the Atlanta task force. I think there was a lot of that going on, and I think that, to me, it is just outrageous. It was an outrage the way that entire matter was handled, and to this very day my good friends at King and Spalding are still patrolling around my waters.

I felt that the relationship between the task force and King and Spalding's people was much too close. There was not, in my esti-

mation, an objective analysis of the bank's position, and I believe that King and Spalding had a lot to do with that.

And with that, I think I just have to summarize, and forgive me for being so long winded.

[The prepared statement of Mr. Drogoul can be found in the appendix.]

The CHAIRMAN. Well, on the contrary, I want to thank you. Of course, we are familiar with the course of developments and the first attorney you hired, because it was the documents that we revealed to the Congress that enabled that attorney to at least preliminarily prevail in what otherwise, you are correct in saying, would have been to dragoon you into a hopeless situation.

As you describe the attorneys, Federal attorneys advising you on what you should say, you were incarcerated at the time, you were in custody, were you not?

Mr. DROGOUL. Yes, I was.

The CHAIRMAN. All right. The sad, lamentable thing of this whole deal is that we have become corrupted in our country. I have had the privilege of serving in this Representative capacity in the U.S. House of Representatives for 32 years, so I have served with about eight Presidents, and I have very diligently observed the various and sundry Attorneys General. But I think the most corrupt Justice Department that I have witnessed was the immediate past one. I have said this before, and I have no reason not to repeat, as to what this present Justice Department does, they have not yet filled the majority of the positions. So the same hands that were there a year ago are still there.

Mr. DROGOUL. I would agree with that.

The CHAIRMAN. And so they will have to answer to a judgment as they write their own ticket in pursuance of this charge in their 4 years that the people have given them.

You made a very interesting comment about how this was not a bank fraud failure, but a foreign policy fraud. Well, let me point out that when we started out—and the first hearing we had 3 years ago, we are luckier today. We didn't have one member attending the hearing. And the reason for that hearing was that it was the first opportunity we had after going through the ordeal of the so-called savings and loan developments, but it was a small, little notice in the *Wall Street Journal* in 1989, reporting that a \$2 billion letter of credit had been issued to Iraq that aroused my attention.

First, I said, my gosh, Atlanta is really getting up there at the top. Ordinarily that amount, I would say, would be a New York bank. So then we were so immersed, though, in the BNL and all that was attached to it, and we don't have the staff; we have very limited staff.

So when I asked the question, well, what is this bank, it really took some time before I found out and became educated as to the difference between an agency bank and a branch and, of course, the line of activities. But we continue corrupted in our ways. You would think we would have learned by now about the commodity credit guarantee corruption.

Yesterday we had a hearing on NAFTA, and we had the commissioner of agriculture from the great State of North Dakota. Right

now the taxpayer is facing over \$1.2 billion worth of guarantees to Mexican banks, and remember that when we went into the hearing and saw Iraq, number one, everybody forgets that, number two, using that guarantee program was Mexico. But the testimony yesterday was incredible. It is the same thing happening now that happened with respect to Iraq.

So what I told the gentlelady commissioner was, well, you know, I smiled because we have gone through all of this that you are reciting in the case of Iraq.

So the other thing is that when we did go in and discover that one—there were three aspects beyond the banking. One was the agriculture, the Commodity Credit Guarantee Program, so we immediately referred that to our colleague in the Agriculture Committee. In our system in the House, we have very compartmentalized jurisdictions. In the case of the foreign policy, which again, we referred to the counterpart in the Foreign Affairs Subcommittee and the chairman of that subcommittee, who incidentally had been speaking out on some aspects of those dealings.

But the fact that out of 347 counts, a plea bargain after your incarceration of longstanding, and there is not an American in this room who can appreciate that like some of us who haven't gone through that, but have had witness to Americans that have, it is a horrible experience to have the full weight of the Federal Government reaching all the way down to the local levels and having a prosecutor bent on pernicious and prosecutorial prosecution. And unless you are able to summon \$1 million to obtain the best legal talent, there is no way.

So even at that on 3 counts, out of 347, indeed, you have been lucky. But still, I think it is a shame. I think it is a clear indictment of us in our society and our government at this time in our history, and I don't care whether that sounds harsh or not, that is the way it just looks, as plain and limpidly plain as anything I have witnessed.

And I think that the only thing you haven't answered—and I will recess for a few minutes to go take this second vote, and I will leave this question here—that has to do with one of the United States Attorney's office listed accusations about supposed payments that you and your family were supposed to have received by virtue of off-book loans to Iraq. The accusation was that you had benefit of \$2.49 million.

So I will leave you with that, and we will recess for about 10 minutes to go and record our vote.

Mr. DROGOUL. Thank you, Mr. Chairman.

[Recess.]

The CHAIRMAN. Mr. Drogoul, we left with that question.

Mr. DROGOUL. I will try to answer that question as quickly as I can and answer it as honestly as I can.

I did not receive any kickbacks at all from any customer that I dealt with. I did, as a result of a problem that I had with my home, however, have to rely on a friend who worked with a company that we did business with at Entrade and borrowed from him amounts of money as they were required to finish up my home, because the contractor that I was working with had absconded and fled to another country with the money that we had initially given to him.

But that, and that figure probably comes to something in the area of \$300,000, \$300-and-something thousand.

But initially, I think I should start by saying that the government and the bank began with me in August 1989 saying that the entire medium-term loan agreement number four was for my personal benefit, and that comes to \$1 billion. After that, they reduced the figure to \$500 million, and then they reduced the figure to \$109 million which represents the monies lent out to Iraq under the option C portion of the medium-term loan agreement, and then we didn't hear anything for a while.

Finally, the government compiled a list, and I think this is the list you are referring to, detailing \$2.5 million in sums paid. The majority of that related to travel and entertainment expenses paid by the branch under the gray book for expenses related to travel, not just my travel, but Mr. von Wedel's travel, Dejani's travel, all my staff's travel and that was included on a page of expenses that supposedly were for my benefit.

They listed, for example, American Express cards that I don't even have. This is another point that was mentioned, as well. In their zeal in their attempt to try to make a case, they said that the company—a company by the name of Entrade rented a house for me in Southampton, New York, which is not correct at all.

The point of the matter is that I went to New York and spent 6 or 7 weeks with my family there visiting family who live in New York City, family who live in New Jersey, and family who live in Westchester County, and during the course of that time I spent an amount of time at Southampton, but the house certainly was not rented for me or for my family.

Those are embellishments that the government has tried to bring about now that the case that they are dealing with has really been diminished to almost nothing. So in summary, I reiterate, I have not received any kickbacks.

I think lately they have been—the government has been attempting to suggest that I received amounts between—I don't even know, \$2 million, \$4 million, \$8 million, saying these are monies that were paid for my benefit in Europe, and that is not true. It is the first I had heard of it. But I take it for what it is worth. It is the government's attempt to try to put on their best show at this time.

What I received, I think I just mentioned previously, and that is those were sums to help renovate my house in the 1987–1988 period, and those were not really to be considered kickbacks, those were genuinely going to be repaid by me over time, it just that I never got to that point. August 1989 occurred and the events that we are all familiar with transpired.

The CHAIRMAN. Let me ask you another question with respect to the banking practices. BNL on its own, because I don't know of any bank that does go out and expose itself in these amounts by itself, doesn't it do what is commonly defined as syndicating with other banks and through other banks some of its loan exposures?

Mr. DROGOUL. I think that is a question that has to be answered in two ways. Traditionally, BNL has not been a bank that has syndicated in any great manner, shape, or form. As you question my colleagues, you can ask them perhaps what their experience is on the matter of syndication. We had tried from Atlanta to become in-

volved in syndications, or to syndicate, using the bank's name, and the bank in Rome was very reluctant to allow us to syndicate. That is just a general statement.

I think your other question is really linked to the Iraqi facilities, perhaps, and why it was that those facilities were never syndicated.

We in Atlanta attempted to syndicate some of the CCC facilities, and I acknowledged as much to my people in Rome when we did the second of the third year's allocation of the CCC business to Iraq. We were not successful, not because Rome didn't want us to do that, we were not successful because we were trying to utilize a CCC guarantee as an instrument that could be used to securitize a transaction.

I am certain you understand what I mean, but perhaps some of your colleagues do not. And we had to wait for written approval from the Treasury Department to see whether or not they would agree to accept a CCC guarantee as an acceptable instrument—an acceptable government instrument. And the Treasury apparently did not feel that they wanted to use their CCC guarantees as collateral for secured transactions.

So while there was an attempt on our part to participate in much of the business, we were not able to do it.

The CHAIRMAN. My time has expired and we may have another chance and I will follow through on another aspect of that same question. Mr. Leach.

Mr. LEACH. Thank you, Mr. Chairman. Mr. Drogoul, I have no doubt, given the workings of the American legal process, that you are individually accountable for certain crimes. Having said that, I also have very little doubt that you are a scapegoat for other banking authorities and possibly for the American foreign policy establishment. Scapegoating is in this week.

We had a rather ludicrous example yesterday where the number two official of the Department of State is being implicitly held accountable for the American foreign policy errors of the last few months.

In American banking law we have an extraordinary tradition where at one point in time every bank had a cashier, and if something went afoul, the cashier went to jail, but the CEO and the chairman didn't. And I feel you are in the great American tradition of cashiers going to jail.

Now, having said that, there are a number of interesting ramifications of this whole BNL circumstance for both banking regulation, agricultural policy, as well as foreign policy, and there are some questions I would like to ask you.

Did you know Dr. Alfred Hartman, and what was his relationship with your bank?

Mr. DROGOUL. I believe you are referring to the Chairman of BNL-Zurich?

Mr. LEACH. Yes.

Mr. DROGOUL. I did not know him personally. I worked fairly closely with the people at BNL-Geneva who reported to him, but I do not know him personally.

Mr. LEACH. And so did you know his relationship to BCCI? And did your bank have a relationship to BCCI?

Mr. DROGOUL. I am sorry, that was one of the questions that I was asked also that I did not answer in my statement. I am sorry.

Mr. LEACH. Yes.

Mr. DROGOUL. You are asking three questions, as I see it. You are saying, was I aware of Mr. Hartman's relationship to BCCI, and I think the straightforward answer to that question is no, but I will answer it more completely.

Did BNL-Atlanta have a special relationship with BCCI? And I think I would have to say I don't know. I would ask you to inquire—I would ask you to ask Mela Maggi about that question. And what do I know about BNL-Rome's relationship to BCCI?

I think I will preface everything by saying that I became aware of what BCCI really was as early as 1982 or 1983 when Ghaith Pharaon purchased the National Bank of Georgia. During that period of time, Mr. Pharaon put in place a management team comprised of BCCI officials, and they were resident in Atlanta, and it became very clear to us, since the people with whom I met at the National Bank of Georgia, then to become First American Bankshares, that First American Bankshares was being, I will use the word "managed," I won't use the word "owned," managed by BCCI. I mean we met someone by the name of Tariq Jamil and two or three other people in the International Lending Division.

And it was clear what BCCI was at that time. And by that I mean that it was clear that BCCI was a bit of an extraordinary bank. It wasn't the usual bank, but then BNL was not the usual bank either.

As our relationship in—as our need to purchase funds grew in Atlanta, one of the banks that we borrowed from on a regular basis apparently was BCCI. The question one has to ask is, was that amount of borrowing unusual? Was it abnormal? Was there a special relationship? I really didn't have any direct link or discussions with BCCI officials, except for those people who I mentioned previously, and they left and moved to the London office in 1985 or 1986.

If I am not mistaken, we were borrowing on a regular basis, and again, Ms. Maggi can tell you better than I, something in the area of maybe \$20 million a day? Is that about right? I don't know that that is unusual. It may be that the trading section of BNL-Atlanta had a close relationship to BNL-Miami—I am sorry, that BNL-Atlanta had a close relationship to BCCI Miami, and because of the close relationship, BCCI lent money to Atlanta.

Mr. LEACH. Before my time runs out, I do want to ask you about Miami ties. As you know, Ghaith Pharaon was somewhat of a benefactor of David Paul. Did you have any relationship, did your bank have any relationship directly or indirectly with David Paul and CentTrust?

Mr. DROGOUL. Not that I am aware.

Mr. LEACH. Fair enough. Well, my time has expired. Mr. Chairman, the minority has—

The CHAIRMAN. We will give you a little more time.

Mr. LEACH. Fair enough.

The CHAIRMAN. I ask unanimous consent that the gentleman may proceed for an additional 2 minutes.

Mr. LEACH. OK. In terms of Hartman, did you have any knowledge that he was intimately involved in all of these transactions?

Mr. DROGOUL. No. But I knew that he was a special individual at BNL. That is about the extent of what I can say. In other words, he had an exceptional relationship at BNL-Rome.

Mr. LEACH. What then was your precise relationship with Lavoro?

Mr. DROGOUL. Zurich and Geneva?

Mr. LEACH. Either.

Mr. DROGOUL. We in Atlanta did a lot of business with the grain trading companies who were based for the most part in Geneva. As I said earlier, whenever we traveled to an area outside of Atlanta's territory, such as Geneva, in addition to doing the business that we ourselves sought, we tried to develop ancillary business for the local branch, like BNL-Geneva. So we developed business for the Geneva branch on a regular basis whenever we could with those companies, but the authority and the answers to the requests to do the business came from Zurich always.

I can add—period. That answers the question. But I think you are driving at something else, and I will try to answer it as succinctly as I can. Mr. Newman was known to run the unit of BNL that reported to no one, if you understand my point. Whereas most of the institutions outside of Italy, the units of the bank outside of Italy, reported to BNL-Rome, Zurich had no members of Rome on its board; and it had a lot of autonomy.

And therefore, the bank was used in Zurich for the purposes of Rome's activities. And I am being very vague, because I don't know of anything particular. But I am just trying to tell you that from the internal grapevine in Rome, it was clear to me that Mr. Hartman had a special relationship with the bank.

Mr. LEACH. Can you tell me, when you had difficult decisions to make or large decisions to make, did you receive an OK from anybody? Who would you seek an OK from?

Mr. DROGOUL. I would seek counsel from people in three or four different sections. The finance area, which was the correspondent banking division, if it was related to, for example, the CCC credit or an Iraqi credit. If it was a credit for a company like R.J. Reynolds, I would go to the credit area. I would go at other times—

Mr. LEACH. These are in Rome?

Mr. DROGOUL. These are all in Rome. I think I have listed in my statement, or perhaps I have not in the statement that you have, but I will be happy to supply it to you, a list of the people with whom I had regular dialog in the four principal divisions in Rome for approvals to go ahead and engage in transactions.

Mr. LEACH. Well, in sum, would you say that you were not acting alone?

Mr. DROGOUL. In substance, you are saying?

Mr. LEACH. Yes.

Mr. DROGOUL. That is correct. There is no doubt about that.

Mr. LEACH. Both in terms of lending activity as well as any activity that might be considered illegal?

Mr. DROGOUL. I would have to say that if you are referring to not placing the loans of—the Iraqi loans on the books, I would have to say candidly that BNL-Rome knew that those loans were not on

the books, and while they did not specifically say take those loans off the books because we have a problem, they let me understand that that was the way it needed to be done, and they allowed the exercise to go on, until the arrival of Mr. Lombardi who started to make a conscious effort to try to get the approvals formalized so that those loans could come back on the books.

Does that answer the question?

Mr. LEACH. It does. Thank you.

The CHAIRMAN. Mr. Hinchey.

Mr. HINCHEY. Thank you, Mr. Chairman.

First of all, let me say, Mr. Drogoul, I appreciate very much your being here and your testimony, particularly the clarity of your testimony, and the courage that you have shown throughout this whole proceeding. You and your family have my profound respect.

Mr. DROGOUL. Thank you.

Mr. HINCHEY. I have had the opportunity in the short time that I have been here in the House to read considerably in this area. There is a great body of material that has been published on this, and a lot of it is still unclear to me. But I think that one thing is clear, that you have been victimized in a very profound way, and I appreciate the fact that you are here now, just prior to a time when you are about to be sentenced, is that correct?

Mr. DROGOUL. That is correct.

Mr. HINCHEY. Well, I think that this is one of the most extraordinary episodes in American history, and I think that it indicates a degree of corruption at very high levels in our government. I think that your expression of gratitude a few moments ago to our chairman was very well placed.

I can think of no one who has done more to keep this issue before the American public, and I think that that, in and of itself, is a great service to the people of this country and to other people around the world. I look forward to the publication of the book that is about to come out, "The Spider's Web," I think it is called, and I think that that will also make a major contribution to bringing this issue to the attention of larger numbers of people in the public.

You mentioned that there were some companies who were not connected with the agricultural commodities—were not connected with the agricultural industry or the selling of agricultural commodities who were doing business through CCC. Can you name those companies? Do you know who they are offhand?

Mr. DROGOUL. Well, I would say that offhand a few come to mind, but if you look at the—I will start by mentioning the pattern. I would say that, of course, the big grain companies dominate the business, and dominate the industry, and that is to be expected.

But then as a second tier or as a third tier, one finds breakaway traders who have gone off, grain traders who have gone off and started their own commodity business, and that is normal and to be expected. But we found when we examined the record afterwards that there were innumerable companies that were industrial companies.

Just to mention one, I will mention Enka, Entrade for one is a company that has always mystified me. Enka is a Turkish engineering company, construction and engineering firm, very big, pow-

erful group in Turkey, and now all of a sudden in 1985, 1986, they transform a subsidiary that was heretofore a supply subsidiary for the engineering and petroleum concern in Turkey to a commodities lending unit, commodities lending and specifically in Iraq. Their initial business was with Iraq. That is just to mention one. But I can mention four or five.

There were companies always that seemed to have ties with Iraq, but not agricultural ties, if you see my point. They got involved in the agricultural business. Offhand I can't remember all of them, but I would be happy to supply you the list in a few day's time if you wish.

[The information referred to can be found in the appendix.]

Mr. HINCHEY. Yes, I would. Thank you.

You mentioned in your testimony that Dr. Kissinger was in some advisory capacity, an international advisory board of some kind to BNL. Can you describe the kind of activity that that would entail, what kind of services might be provided and in what capacity?

Mr. DROGOUL. Well, I certainly wouldn't want to speak for Mr. Kissinger. The international advisory board of the bank was formed by Dr. Naqvi, the then-chairman of the bank, to obtain advice and counsel on what policies should be taken by the bank to develop bills and expand business.

Another curious link, on that same advisory board is the chairman of Volvo. Please don't misunderstand me. I am not suggesting that there is anything wrong with the chairman of Volvo being on the international advisory board of BNL. But the last transaction that I was asked to engage in for the Iraqis involved General Motors and Volvo, and it was a project managed by Volvo. I don't want to suggest there was a tie necessarily, but we always found these funny little links that went back to a few, a few people.

As far as—I think I have commented on Mr.—I will let Mr. Kissinger comment if he wants to say about his role at BNL and the advisory board, but if you wish for me to answer a question as to what Mr. Kissinger and his group seem to be doing in developing business for Iraq, I would be happy to do that, if that is part of your question.

Mr. HINCHEY. Yes, please do.

Mr. DROGOUL. In probably—I don't know the exact date that the group was formed, but a group was formed called the Iraqi/American Business Forum based here in Washington and composed of a number of Fortune 500 companies with considerable export business. When the Iran-Iraq war was finished and ended in 1987, in early 1988, there was a big push on to develop commercial business with Iraq.

The Iraqi/American Business Forum was the principal tool that those American companies used to develop that business. It turned out that several of the individuals who worked for Kissinger & Associates worked with the Iraqi/American Business Forum or with the companies that were supporting the American/Iraqi Business Forum to develop business and made trips with those companies to solicit business directly with President Hussein, directly with the Ministry of Trade in Iraq and other entities.

Mr. HINCHEY. Thank you.

The CHAIRMAN. Could I ask the gentleman from New York to allow me an additional 1½ minutes in order to follow through on something here with respect to the role of Henry Kissinger.

You know, when we had our hearings last year and the year before, we brought out, and in fact published documents, showing his membership on the international advisory board of the BNL. Today I am going to ask unanimous consent at this point to insert the minutes of that board meeting which documents Mr. Kissinger's participation.

[The information referred to can be found in the appendix.]

And the reason I do so is that when we reported his participation, and in the deliberations of the advisory board, he hired himself one of the leading attorneys in Washington to write a letter protesting and stating that he at no time as a member ever discussed Iraq.

The minutes today will show, and these are direct from the advisory board's minutes, that a meeting of the international advisory board in Madrid, May 4 and 5, 1987, and then subsequent to that, Mr. Kissinger's opinion is in part changed with respect to his observations on the Iran-Iraq conflict, on its results, on its outcome and the consequences, and he is quoted as saying: I give the victory of Iran over Iraq at 55 percent, and recognize I will change my percentage with respect to previous evaluations. And what follows, clearly shows that Henry Kissinger did have more than just a passive role as a member of the international advisory board of the BNL.

Also, I will advise the gentleman from New York that last year and the year before, we placed documents in the hearing records, as well as in the *Congressional Record*, in which we brought out that our request for those minutes to the BNL bank in Rome were rejected on the basis that they had no such thing as minutes. So now that we have our hands on a faithful new copy of the minutes, I ask that we place them in the record at this point.

And I want to thank the gentleman for his perspicacious question.

Mr. HINCHEY. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. McCandless.

Mr. MCCANDLESS. I am sorry, Mr. Chairman. I was reading here. Did you recognize me?

The CHAIRMAN. Yes, I did.

Mr. MCCANDLESS. Thank you. Mr. Drogoul, one of the important parts of this committee is to find out what is wrong with the system and to try to find ways by which to correct it. I am going to ask you to go back over that part of your testimony with respect to the examining process as it relates to the bank in question.

On pages 7, 8, and 9, you talk about the fact that the Federal Reserve Bank simply confirmed the State of Georgia's audit, that they examined credit folders to determine whether they were an inherent risk in lending to a particular company, but that they did not and were not designed to verify bank's records, that Pete Marwick's examination was nothing more than an exercise to place an independent auditor's label on the branch, and finally, that the audit performed by the internal auditors of BNL was comprehensive and thorough had it not been tamed.

Where are we failing to do the proper review of an institution's records in order to minimize or prevent what it is we are talking about here from happening again, or at some future time?

Mr. DROGOUL. I would probably say at the first line of defense for any bank, it must be with its own internal auditors, that is number one. But—

Mr. MCCANDLESS. Let me interrupt you here, because you used the word "tamed," which I am not sure of a definition. That would indicate to me that the internal audit was modified to satisfy some higher authority with respect to the operation of the institution. Is that a proper definition?

Mr. DROGOUL. That is correct. That term was not used by me; that term was used by the Italian Senate committee in one of its questions to me. They stated that the audit was tamed, and tamed is defined as you have described it. The audit that was performed on the Atlanta office was not really—it was thorough in a very superficial way.

It didn't begin to get to the heart of the branch's recordkeeping system at all. That is why I said in my testimony that I think if this had taken place—this never would have taken place in New York, because I don't believe that an audit, even an internal audit performed in a place like New York, would have been handled in that matter. The first thing to—

Mr. MCCANDLESS. Would you indicate then by this comment that the Georgia audit was lacking, by comparison to say a New York audit?

Mr. DROGOUL. No. I think what I would say, first of all, is that the first line of defense for any bank has got to be its own internal audit, that is number one. However, in Atlanta, the audit was not as it should have been, the internal audit.

And the State banking department in Atlanta seemed to rely on the bank to police itself as far as its own internal recordkeeping is concerned, and instead, looked very closely at credit risk rather than accounting systems. In New York City, I don't think that would happen, because in New York City—the New York State banking authorities look at both, whereas the Georgia people did not.

Mr. MCCANDLESS. Are you speaking from experience now?

Mr. DROGOUL. Yes. Using my experience in Atlanta and the colleagues of mine in different banks, in the New York banking community who have been audited by the State of New York auditors and by their own internal auditors and by the Federal Reserve Bank itself in New York.

Mr. MCCANDLESS. All right. Let me stop you there with respect to the Federal Reserve Bank in New York. Are we saying here that the Federal Reserve Bank in charge of the Georgia region had a different set of auditing procedures than the Federal Reserve Bank of New York, and that one was more diligent than the other?

Mr. DROGOUL. I don't want to say that, because that seems to insult someone. But if I have to say it, I have to say it exactly as you have said it.

The people in New York have experience and the exposure to look at international loans, to understand exactly what they mean, and would have had certainly if the New York Fed had audited the

books of the Atlanta branch, they would have picked up the exposure to Iraq, even though it was minimally shown, the exposure to Algeria, to the Soviet Union and to other countries, and would have reported it in a different way than the Atlanta people did. I think that is the sense of what I am trying to say.

Mr. MCCANDLESS. On a little different note, I have before me the August 9, 1993 *National Law Journal* article dealing with Justice Department's conflicting BNL theories. That article concludes by saying that a motion filed by your attorney at that time said a prominent Texas benefactor, whom a source has identified as 1992 Presidential candidate H. Ross Perot, has agreed to foot the bill for any special security conditions the judge may require as a result of your attorney petitioning for release on bond pending trying. Are you familiar at all with this area?

Mr. DROGOUL. I am vaguely familiar with that. I would perhaps be best advised to refer you to my attorney who is sitting here next to me if you have any specific questions on that.

Mr. MCCANDLESS. I am sorry. Can you speak up on that?

Mr. DROGOUL. I am vaguely familiar with it. If you have any specific questions, I would be advised to turn the issue over to my attorney who knows much more about it than I do.

Mr. MCCANDLESS. The article stated that it was Ross Perot who offered to underwrite your bail. So if that is true, why would Mr. Perot be willing to foot the bill for your freedom?

Mr. DROGOUL. I believe that is true, but I don't know the answer to the next question. So do you want to answer that?

Mr. MCCANDLESS. No conjecture?

Mr. DROGOUL. I have no idea why he might want to do that.

The CHAIRMAN. If you wish to consult with your attorney and then at a reasonable opportunity answer that question, either at a later point during this hearing or subsequently in writing, if that is acceptable to you, because he of his own knowledge and doesn't know exactly what Perot's reasons would be, and perhaps after he has a chance to consult with his attorney, heck, hazard a guess.

Mr. DROGOUL. I would be happy to answer the question in writing if you wish at a later point.

[The information referred to can be found in the appendix.]

Mr. MCCANDLESS. I would appreciate that. Thank you, Mr. Chairman. I believe my time is up.

The CHAIRMAN. Well, if the gentleman has a question to follow through, why don't you get it over with now, because I am trying to give the members as much additional time as possible, since we took extra time.

Mr. MCCANDLESS. I have pretty well covered what it was I had in mind. Thank you.

The CHAIRMAN. Well, thank you very much, Mr. McCandless. Mr. Sanders.

Mr. SANDERS. Thank you, Mr. Chairman. I want to congratulate you on your persistence on this important issue.

Mr. Chairman, you may have read recently that the Government of the United States is investigating the possibilities that one of the reasons that some of our Persian Gulf soldiers have become ill is the possibility that Saddam Hussein may have used chemical

weapons in the Persian Gulf, and that is something I guess no one knows the answer to and is being investigated.

My question that I would like to ask Mr. Drogoul is that in addition to the loan guarantees provided by the CCC Program in the U.S. Department of Agriculture, isn't it true that BNL-Atlanta received loan guarantees from Eximbank as well?

Mr. DROGOUL. That is correct, we did.

Mr. SANDERS. What I wanted to ask you is, do you recall filing an application for an Eximbank loan guarantee in connection with a transaction involving Dow Chemical in 1989?

Mr. DROGOUL. I am aware that the guarantees were filed; but I was not familiar with the details of that transaction. I think the person who is best placed and suited to answer your question would be Mr. von Wedel.

Mr. SANDERS. OK.

Mr. DROGOUL. Because I think he or his mutual colleague, Mr. Fibelkorn, were involved in placing the request directly to Eximbank. But I am familiar—I do recall directing a request to Eximbank for the Dow Chemical, yes.

Mr. SANDERS. What about Bechtel?

Mr. DROGOUL. Bechtel is a whole different story. I can go on for a long time about Bechtel if you wish.

Mr. SANDERS. Well, I don't have a long time. Maybe just chat a little bit. If some of us have a concern that American corporations might have wittingly or unwittingly played a role in supplying Saddam Hussein with chemical weapons, what was BNL's involvement in that? And what light can you shed on that issue?

Mr. DROGOUL. As far as—I think we have to look at it from BNL's point of view, which was that BNL-Atlanta was attempting to develop relationships with the big multinationals and Fortune 500 companies in North America. That was specifically a directive that was given to me by my general manager in Rome.

And so when the name Bechtel pops up, when the name Hewlett Packard pops up, Dow Chemical pops up, and one has the opportunity to become a banker to those companies, one does whatever one can. However, in the case of Bechtel, I went personally to visit several of the petrochemical plants or one petrochemical plant in Iraq.

Mr. SANDERS. Was that the PC-2 plant?

Mr. DROGOUL. No. That was PC-1. PC-2 was not yet, if I am not mistaken, wait, was on the drawing boards but was not constructed. We went to PC-1 and Bechtel was the official subcontractor doing renovation on the project through Lummus Crest. Bechtel was the major designer and contractor, if I am not mistaken, on the PC-2 project as well.

Mr. SANDERS. If I could interrupt you. Ostensibly, this plant was designed to provide pesticides for agriculture?

Mr. DROGOUL. That is what we were told.

Mr. SANDERS. Did anybody have any thought or know enough about chemistry to suggest that some of those same chemicals could be converted into chemical weapons?

Mr. DROGOUL. At the time that this was taking place, I certainly didn't think of that possibility at all.

Mr. SANDERS. Did you hear any discussion among people who might have said we possibly are providing chemical weapons for, in fact, a very dangerous man?

Mr. DROGOUL. No. The PC-1 plant was designed for exports, designed for export markets. The PC-2 plant which was to be built outside of Baghdad was designed for the domestic market. I think when my colleague, Mr. von Wedel, and I visited the PC-1 plant they were working on trying to produce ethylene. Now, ethylene may have various functions, but I am not a chemist and I don't really know.

So I really relied on the fact that Bechtel was a prominent company and I assumed that they would not do anything that would be against the interests of the U.S. Government or United States policy at the time.

Mr. SANDERS. Thank you very much.

The CHAIRMAN. Mr. Knollenberg.

Mr. KNOLLENBERG. Thank you, Mr. Chairman. This is a followup to Mr. McCandless' question, and if the chairman would approve, I would like to go back to the question asked of Mr. Drogoul's attorney, to comment on the Perot offer.

I don't think we got a complete answer in the time allotted Mr. McCandless, and if that would be appropriate, I would like to reopen that to get your opinion of that matter, the validity of that claim, which did appear, of course, in the newspaper article back in June 1992.

Mr. SIMELS. You want me to respond?

Mr. KNOLLENBERG. I want you to respond, if it is in agreement with the chairman.

The CHAIRMAN. Under the rules, this is not a judicial or a criminal proceeding. The gentleman is not guaranteed counsel, and the counsel is there at sufferance of the Chair, but not to present testimony or act as a witness. He has a right to counsel Mr. Drogoul. And the way we left it a while ago was that Mr. Drogoul, as soon as he could find out more about the story relating to Perot, would give an answer either before the termination of this hearing or in writing if he couldn't.

However, if Mr. Drogoul in the meanwhile has had an opportunity to consult with counsel and comment, yes, he may answer your question, if he has. If he hasn't, I think we can let it go the way we did with Mr. McCandless.

Are you ready to comment on that?

Mr. DROGOUL. I think I can comment briefly.

The CHAIRMAN. OK.

Mr. DROGOUL. But I can't give you the full story at this time. I would be happy, as I mentioned previously, to do that.

As I understand it, my attorney spoke with Mr. Perot and Mr. Perot expressed the thought that what was being done, quote, to Drogoul was un-American, period. You talk to that judge, I think that is the way my attorney expressed it to me, you talk to that judge and tell him that whatever bail is necessary, he needs to set it, and then come back to me and we will work out the details, unquote. That is pretty much what was conveyed to me just now.

Mr. KNOLLENBERG. Those were the words of Mr. Perot?

Mr. DROGOUL. Those would have been the words as Mr. Perot—no doubt I paraphrased them. I don't say them as well as Mr. Perot does.

Mr. KNOLLENBERG. Let me go to another question.

On June 23, 1992, that same timeframe, you told government investigators that you never told anyone in the U.S. Government about your illegal activities, nor did you have any authorization from the U.S. Government for your activities. Do you stand by that statement today?

Mr. DROGOUL. Well, may I ask you a question? Is that coming from what is known as the government's 302 form, do you know?

Mr. KNOLLENBERG. That is coming from a June 23, 1992, it is an interview with government investigators. That is as much as I can tell you about the source. I am not withholding anything, but that is as much as I can tell you.

Mr. DROGOUL. No. In my conversations with the government—well, let me preface it by saying, first of all, you can go back to 1989. In 1989 when this entire thing erupted I was aware that I was not dealing with just a bank, but I was dealing with three governments, the United States Government, the Italian Government, and the Iraqi Government, and I didn't really feel it was my position to start pointing fingers initially. It wasn't my problem, it was their problem. That is how I saw it.

So I initially said, I really didn't have formal approval. I didn't use the word "didn't have approval," I said I really didn't have formal approval. I wanted to let them deal with the issue, not me, because I really didn't think it was my problem.

So moving back to June 1992, I made similar comments to the government—

Mr. KNOLLENBERG. You said moving back—

Mr. DROGOUL. I am sorry, moving forward now to June 1992, I expressed the same thoughts to the government, and in those meetings, the government slanted my sentences to conform to what they felt was important for their interviews. That is what I tried to express earlier. And that is the thing that completely outraged me.

I have testified today and I have testified to that same Atlanta task force previously on several occasions that there were several people in the U.S. Government with whom I had conversations. No, I did not have a conversation with Mr. Bush; no, I did not have a conversation with people who were directly in the executive branch, but involved in formulating U.S. policy, but I did have conversations with people who were peripherally involved with those people, and I did have direct conversations with people at the USDA, people at Commerce, and so forth, but not high-ranking people. Does that answer your question?

Mr. KNOLLENBERG. You are getting closer. Is that the extent of the response then?

Mr. DROGOUL. For the moment.

Mr. KNOLLENBERG. I have no further questions. I think you have responded in the fashion that you feel best for yourself and I accept that.

Mr. DROGOUL. Thank you.

Mr. KNOLLENBERG. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Castle.

Mr. CASTLE. Well, thank you very much, Mr. Chairman. I share your concern. If there has been wrongdoing or corrupt behavior or whatever, we obviously need with all our power to make sure that that is brought to light. But I do have a great deal of concerns about, Mr. Drogoul, your background and exactly where you are coming from and why you are doing this, and I will never get the answer in the 5 minutes that I have. I do want to ask you some questions. First of all, about citizenship. Is it true that you have dual citizenship?

Mr. DROGOUL. Yes, that is true.

Mr. CASTLE. What is your background citizenship-wise.

Mr. DROGOUL. My father is a French citizen and retains his citizenship and therefore as a child of my father I, too, have citizenship. I was born in the United States, however, so I have United States citizenship as well, and unlike many countries, France and the United States have a treaty agreement which permits people to maintain both citizenships.

Mr. CASTLE. Where were you raised, in the United States or France or otherwise?

Mr. DROGOUL. I was officially raised in the United States, but I traveled considerably to Europe, during the summers, sometimes during the school year, during my younger years. I would like to say that I was raised in the United States, New York metropolitan area, but I spent a lot of time in places like Europe and Nice and Marseilles.

Mr. CASTLE. Have you attended graduate schools or colleges?

Mr. DROGOUL. I have an undergraduate degree from Temple University in Philadelphia. That is it. It has been reported that I went to school with an Iraqi official by the name of Safa Al Habobi and that we were both roommates at the University of Montpellier in France. That is not true.

Mr. CASTLE. Is your father in any way involved in these banking transactions?

Mr. DROGOUL. He is not involved really. However, I should explain to you his involvement, and it goes back to the Turkish company called Entrade. My father is again a French citizen who worked for many years in the New York metropolitan area for a French company and then later on for a South African company and ultimately retired in 19—I think 1978, 1979.

At that time he retained several consultancies to the big steel companies in France, the big Luxembourg-based steel company called Arbed, to two or three other companies in Europe that were involved in the steel or metals business. He was living in Luxembourg as a consultant to Arbed at the time that a Turkish company approached me and asked me for a way to establish, or for my recommendation to establish a grain trading company to parallel the company that they had in New York City which would be able to take advantage of the European equivalent of CCC credits.

Those provided by Coface in France, Hermes in Germany, ECGD in England, and so forth, I recommended that he structure the company along the same lines that a very big grain company called Continental Grain had done for its Middle East trading activities and that company was based in Luxembourg. I explained to him

the tax advantages and the benefits of using Luxembourg as best I could and really told him to pattern the structure of his company after Continental Grain Co.

Ultimately, because my father just happened to be there, when he asked me, well, do you know anybody or can you recommend somebody, I called my father and said by the way, I have a client who asked me about establishing companies in Luxembourg, can you recommend someone and he did recommend someone who happened to be an old friend that he had worked with for 20 or so years.

On that basis, this company in the United States, which is a Turkish company, established a company in Luxembourg. Because my father was the person who knew—who had spoken to me and knew the company that—I guess the law firm and the management company in Luxembourg that establishes companies, he was used to introduce both parties, and that is all. As a result of that, his name became embroiled in all kinds of things.

Mr. CASTLE. It was told to me, and I don't know that, that he was an unindicted coconspirator in the original indictment; is that correct?

Mr. DROGOUL. That is correct.

Mr. CASTLE. I assume he has never had a trial or plead guilty or anything to that nature?

Mr. DROGOUL. No, not to my knowledge. No, no. The answer is no.

But as long as we are on the subject, I will just expand it and try to clarify it. When the Turkish company realized that he had very strong connections to the European steel and iron community, they asked him whether or not he would on a case-by-case basis consult for them periodically in matters relating to Enka Construction's steel supply business.

They are in the construction business and they thought if they could develop ties to the steel and iron industry in Europe, it would benefit them. So on a very small basis, and periodically he did some consulting work for them, during the period of, let's say, 1988, 1989, which had nothing to do with BNL, it had nothing to do with anything related to my activities. It was completely unrelated.

Mr. CASTLE. Let me push on, if I may. My time is running short already.

My understanding is your original charges were in the hundreds, I don't remember how many exactly, that you originally plead guilty to some 60 counts in the indictment, and then for the reasons you have stated here, and I won't go into all that, you withdrew and now you plead guilty to 3 counts in a new indictment or 3 counts of the original indictment, is that correct?

Mr. DROGOUL. Three counts in the new indictment, the 60-count indictment.

Mr. CASTLE. You plead guilty to 3 of the counts in the 60-count indictment, is that correct?

Mr. DROGOUL. That is correct.

Mr. CASTLE. What were those counts? Are they felony?

Mr. DROGOUL. They are felonies, and two of them relate to signing false statements or giving false statements to the Federal Reserve Bank and one of them is a wire fraud count.

Mr. CASTLE. OK. This question may have been asked. I, unfortunately, because of the vote, was out of the room for a while and this again was something that was told to me and maybe I should just ask you rather than lead you in the question.

Can you tell us about—did you ever work for Barclay's Bank and if so, how did your employment come to an end? For what reasons?

Mr. DROGOUL. That question has been raised, also. I did work at Barclay's Bank for a number of years, and it was stated by someone that I made \$2 billion in loans while I was at Barclay's Bank and therefore I was thrown out of Barclay's Bank, and that is again a misstatement of the facts.

The fact of the matter is that I was a very junior lending officer, I was barely a lending officer, and my manager had asked me to deal with some of the insignificant clients, the people who walk in off the street. One of the people who walked in off the street was a local individual in Atlanta who was establishing a mortgage finance company using finance, he told me, from a European base or European trust. He asked whether or not Barclay's, which was one of the few banks in Atlanta at the time, would consider holding the deposits or the benefits, the proceeds of that, of the loan that he was arranging with the people in Europe.

I spoke to my boss at the time. My boss said to me, if it is not—if it is something that is beneficial to the branch, by all means, pursue it.

Thereafter, my boss went to a course at Harvard for 16 weeks, I think, and left me alone to deal with the issue. I dealt with the issue as best I could. I tried to be solicitous to the company in Atlanta. Ultimately, we found out that the company that was proposing to lend the money from Europe to the United States company didn't really have the money, and that information came to us through a subsidiary of Barclay's Bank in Switzerland by the name of Clardon Bank, and then a whole uproar developed regarding the entire issue of what was known in the late 1970's as ghost money.

Mr. CASTLE. Without impugning your veracity or any one at Barclay's, I want to ask you this question. Do you know if any one at Barclay's, either in writing or orally, that disagrees with that version of those facts that you just stated.

Mr. DROGOUL. I would recommend you to my personnel file, which has got comments on both sides of the fence.

Mr. CASTLE. Could I have permission to ask one more question or set of questions? I am not sure what the answer to this is either. Because this is so complex, it is difficult to determine all of this.

But one of the original counts I guess to which you, I believe, plead guilty, involved payments for the benefit of Christopher P. Drogoul and family, and there was a series of payments that were made, mostly for personal usage. I was curious as to what your explanation of that is, if you are allowed to say so.

Mr. DROGOUL. That is the question that I had tried to answer for Chairman Gonzalez.

Mr. CASTLE. I apologize.

Mr. DROGOUL. No, that is all right. If you look at that list, you will note that most of that relates to credit card expenses. Is that the list you are talking about?

Mr. CASTLE. I am talking about a list—and I am sorry, I can provide it to you. It is a list that shows payments to purchase home for C. Drogoul, payment to architect for work on your home, \$60,000, payment to architect for work on the home, \$610,000, it goes on, through payments such as that. Are you familiar with it?

Mr. DROGOUL. I answer that question in two ways. If you look at that complete list, it relates to two principal items. Item number one relates to monies that I received, borrowed from an individual at Entrade, who said he was lending me that money and it was fully intended to be a loan. The second set of details on that list relates to credit card expenses.

If you look at those credit cards expenses, they are for credit card expense relating to the travel and entertainment activities of myself and my colleagues at the Atlanta branch during the period of time that we were traveling, but not reporting that travel to our New York office.

And it mentions, that is true, it mentions the Southampton property which I addressed as well, which the government argued was related to a house rented on my behalf, which is not true. I did spend three weekends there, long weekends, admittedly, but I also spent more time at family and relatives in the New York metropolitan area than I ever did in Southampton, and I tried to answer that question directly previously as well.

Mr. CASTLE. Thank you, Mr. Drogoul. I have no further questions at this time.

The CHAIRMAN. I believe, since members are coming in belatedly, we want to make sure, and I am going to recognize you, that you do not repeat a question that has already been asked, because we have been with this one witness quite exhaustively.

Mr. Bachus, I believe you came in ahead of Mr. McCollum.

Mr. BACHUS OF ALABAMA. Thank you, Mr. Chairman.

Mr. Drogoul, in making 5 billion dollars' worth of loans to Iraq, what was your motivation? I mean I don't know that anyone has asked you that. Was it patriotism toward some country, or what was it? What was the motivation?

Mr. DROGOUL. The first thing I would say is that I didn't consider that I was making a \$5 billion loan to Iraq. I consider that not only BNL but the Italian Government were both making 5 billion dollars' worth of loan to Iraq.

And I would also add that since most of those loans were for the benefit of U.S. agricultural companies and U.S. multinational industrial corporations, that they related also to the United States. So it wasn't that the United States wasn't fully aware of what was taking place. I did not establish the guarantees of the Agricultural Department. Those were established by the administration. We were just utilizing the facilities available.

Mr. BACHUS OF ALABAMA. Are you saying that you did this because you thought your employer wanted you to do this?

Mr. DROGOUL. Absolutely. Yes. That's precisely what I am saying.

Mr. BACHUS OF ALABAMA. Do you have any evidence of that?

Mr. DROGOUL. I think if you read the sentencing memorandum, which my attorney is preparing now and which will be submitted to the court in the next few weeks, you will find a fairly long list of evidence that suggests that. It does more than suggest that, it demonstrates that.

Mr. BACHUS OF ALABAMA. But you are aware that this committee has basically stacks of evidence of your attempts to conceal this from BNL bank?

Mr. DROGOUL. Now you are asking a different question. You are asking about the—

Mr. BACHUS OF ALABAMA. But isn't that especially inconsistent with—

Mr. DROGOUL. No. There is concealment—you have to view the concealment not as concealment from Rome but concealment from our New York office because of the shifting politics that have taken place in the 1986–1987–1988 period.

We were not hiding any of the records really until 1987–1988, when there was a shift in New York, a change in New York. And we did not know at the time what position the New York regional manager took in regard to Atlanta, whether he was aware of what we were doing, and so forth.

Mr. BACHUS OF ALABAMA. When you say we, who is we?

Mr. DROGOUL. I mean we in Atlanta, and we the people I was talking with in Rome.

Mr. BACHUS OF ALABAMA. Who were you talking to in Rome that was asking you to make these loans?

Mr. DROGOUL. I have a list of about 10 people on my statement which I don't think you have the updated statement, you may have the original statement, but the—do you have those?

Mr. BACHUS OF ALABAMA. You are aware that you have given testimony before that no one in Rome had knowledge?

Mr. DROGOUL. Yes. And as I explained at the very beginning, I didn't feel it was my role to explain those things. When I first came back to the United States, I didn't perceive this as a matter involving a little branch in Atlanta. I perceived this to be a matter involving three very big powerful governments. I did not want to step on anyone's toes. It wasn't my position really to say anything.

So what I did was, no, I did not have formal authority, left it at that, thinking my bank, which they told me they were going to support me, would deal with the matter but in fact circumstances changed.

Mr. BACHUS OF ALABAMA. Thinking back over the several years of your involvement, can you tell me what was the greatest—or what event above all other events or what communication from Rome led you to believe that they wanted you to make these loans and make them in an illegal manner?

Mr. DROGOUL. I don't think Rome considered it to be an illegal matter. I think—I think for us in the United States, we may have considered it that way, but as far as they were concerned, they wanted me to make loans. I would use the word "illicit" rather than "illegal."

Mr. BACHUS OF ALABAMA. You mean Rome?

Mr. DROGOUL. I am talking about Rome. I'm sorry.

Mr. BACHUS OF ALABAMA. Identify that one communication with Rome that you think best exemplifies their involvement and their knowledge.

Mr. DROGOUL. I think you could use the Donelli transaction, for example, which is the transaction which was directed to us by the head office in connection with a contract between a big Italian engineering company and the Iraqi Government for the establishment of a steel supply or a steel plant.

Mr. BACHUS OF ALABAMA. But that was a legal transaction.

Mr. DROGOUL. No, that was—that was recorded in the same manner.

Mr. BACHUS OF ALABAMA. And they told you to do it and do it—

Mr. DROGOUL. In fact, in that particular transaction, we were at the point at that time as I believe early in 1989, correct me if I am wrong, where I was now saying to Rome, gentlemen, we here in Atlanta have done enough, it is now your turn in Rome to pick up the ball. We are finished.

Mr. BACHUS OF ALABAMA. You are saying you had that communication?

Mr. DROGOUL. Yes, I had that conversation with Rome and shortly afterwards, I received a telephone call—

Mr. BACHUS OF ALABAMA. Who were you talking to?

Mr. DROGOUL. Who was it I speaking to in Rome? I was speaking to Mr. Monaco, to Mr. Lombardi, among—

Mr. BACHUS OF ALABAMA. Did you ever tell them that you were making these loans and you were not disclosing these loans to the U.S. Government.

Mr. DROGOUL. They knew that we were making the loans, that answers one part of your question and they knew, too, that we were not disclosing the loans. If you understand the Italian character, you will understand they don't always ask the question that needs to be asked. They understand, but they want to keep back a little bit from the fray itself.

Mr. BACHUS OF ALABAMA. What was your reward as you saw it for doing these illegal loans which you knew to be a felony in the United States?

Mr. DROGOUL. Well, I thought first of all, to answer that, I go back to the issue of illegality or legality. I thought it was a matter for the—it was a matter that related to the bank, it didn't relate to me so much.

I was moving along the chain fairly well. I was about to be transferred to Chicago and I was hoping that within maybe 2 or 3 years of that, I would be moved up to the higher position in the New York area.

Mr. BACHUS OF ALABAMA. All right. Let me ask you another question. You said that one of your employees, Jean Ivey, was dating a U.S. Senator. Did you have reason to believe that she had had some communication with the U.S. Senator, because you actually brought this up in your testimony.

Mr. DROGOUL. I brought that up in my testimony?

Mr. BACHUS OF ALABAMA. Didn't you?

Mr. DROGOUL. I think I would rather let Jean Ivey answer that question.

Mr. BACHUS OF ALABAMA. Do you see—

Mr. DROGOUL. I was aware that she was having a relationship with someone by that name. I was probably aware that he was—that person was a Senator. But that's her personal business.

Mr. BACHUS OF ALABAMA. But you don't see any significance to that.

Mr. DROGOUL. There could have been. I think one of my colleagues—as one of my colleagues has mentioned or testified or written somewhere that he shared concern that we had discussed our concern about that, but—

Mr. BACHUS OF ALABAMA. Was she aware of the illegal loans?

Mr. DROGOUL. Yes, she was.

Mr. BACHUS OF ALABAMA. Back during the period of time she was dating this U.S. Senator?

Mr. DROGOUL. First of all, again, I take issue with the characterization of those loans as illegal.

Mr. BACHUS OF ALABAMA. All right. But these loans.

Mr. DROGOUL. Yes, these loans, but—

Mr. BACHUS OF ALABAMA. Was she dating this U.S. Senator during this period of time?

Mr. DROGOUL. I believe so, but you have to confirm that by speaking to her. I am not trying to be difficult. I just don't want to speak for her, that's all.

Mr. BACHUS OF ALABAMA. And this gentleman was Tezeller; is that right?

Mr. DROGOUL. Tezeller.

Mr. BACHUS OF ALABAMA. Are you aware of in the book "Death Trap" by Kenneth Timmerman that he states in that book that you and this other gentleman had a scheme to divert about \$2 million to yourself.

Mr. DROGOUL. Yes, I read that, but Mr. Timmerman also said that I went to school in Montpellier, France, with Dr. Hobparthe. He also said I was Franco-Lebanese in origin and there are also many inaccuracies in that book and that is inaccurate.

Mr. BACHUS OF ALABAMA. What would—how do you pronounce it?

Mr. DROGOUL. Tezeller.

Mr. BACHUS OF ALABAMA. What is his motivation for participating in these loans. He worked for a Turkish—

Mr. DROGOUL. Tezeller was the managing director of the United States subsidiary of the big Turkish company which was heavily involved in the CCC Program to Iraq. And that I would say is one of the companies that I found—I found it strange that a company that is basically an engineering concern would find itself involved in grain sales, but it was.

Mr. BACHUS OF ALABAMA. Did you ever receive any money from that company or from him?

Mr. DROGOUL. As I have already testified, I received from him about 300 and something thousand dollars in connection with the renovation of my house when my contractor left the country, fled the country with the money we had given him, originally, and I was—

Mr. BACHUS OF ALABAMA. So you are disputing the fact that you received upward of \$1 million. You do admit that you received about \$350,000?

Mr. DROGOUL. That's correct.

Mr. BACHUS OF ALABAMA. Who was that money from and how was it delivered to you? Was it in cash?

Mr. DROGOUL. No. No. It was transferred to my accountant—my architect.

Mr. BACHUS OF ALABAMA. Directly from him to your architect?

Mr. DROGOUL. Correct.

Mr. BACHUS OF ALABAMA. Was it reported as income to you on income tax?

Mr. DROGOUL. No, I considered it to be a loan. The whole purpose for renovating my house was to get a higher mortgage because my accountant had told me that I had too small a mortgage and I was silly, and so forth, so the whole purpose of the renovation was to increase my mortgage. So my planning when the house was finished was to increase my mortgage and pay him back.

Mr. BACHUS OF ALABAMA. Is there anything in writing about this loan?

Mr. DROGOUL. You mean is there a loan document?

Mr. BACHUS OF ALABAMA. Is there a loan document? Is there any—

Mr. DROGOUL. No, there is no loan document because we were friends.

Mr. BACHUS OF ALABAMA. Was there a letter? Anything written about this loan?

Mr. DROGOUL. I am sure that Mr. Tezeller would state as much.

Mr. BACHUS OF ALABAMA. What is the interest rate?

Mr. DROGOUL. What is his interest in that?

Mr. BACHUS OF ALABAMA. What is the interest rate on this loan?

Mr. DROGOUL. It was something in the area of 6 or 7 percent. He said, don't worry about it, Chris, just pay me a fair—

Mr. BACHUS OF ALABAMA. He just transferred a third of a million dollars to your architect and—

Mr. DROGOUL. That's not correct. He transferred \$7,000 and \$25,000, as I was trying not to spend money for the renovation of the house, but because of the way the previous architect had run—

Mr. BACHUS OF ALABAMA. Total, total of a third of a million dollars.

Mr. DROGOUL. That's correct.

Mr. BACHUS OF ALABAMA. But you don't—he just said pay me back when you can?

Mr. DROGOUL. Not pay me back when you can, pay me back when your house is finished and when you have refinanced it.

Mr. BACHUS OF ALABAMA. Who did you understand this money was coming from? From him personally?

Mr. DROGOUL. I took it to be coming from him personally. In fact, on the—

Mr. BACHUS OF ALABAMA. What did you see his motivation as being in loaning you a third of a million dollars.

Mr. DROGOUL. Well, Mr.—

Mr. BACHUS OF ALABAMA. With no interest rate or no evidence of loan.

Mr. DROGOUL. Mr. Tezeller was not a poor individual. His annual bonuses came to something in the area of \$1 million a year. I don't think this was a substantial sum of money for him.

Mr. BACHUS OF ALABAMA. How good a friend was he? Describe you all's relationship.

Mr. DROGOUL. He became a fairly good friend. He was close to my two sons. He tried—much to the chagrin of my wife, he tried to travel with us on vacation even though she wanted to be alone with myself and the children, but he traveled with us on occasion.

Mr. BACHUS OF ALABAMA. But your business relationship with him was solely in connection with making these loans to Iraq; is that correct?

Mr. DROGOUL. No. I would have to say no to that.

Mr. BACHUS OF ALABAMA. What other business transactions.

Mr. DROGOUL. There were other transactions involving all sorts of different countries.

Mr. BACHUS OF ALABAMA. Loans?

Mr. DROGOUL. I would say they were loans, yes, for the most part.

Mr. BACHUS OF ALABAMA. What other countries?

Mr. DROGOUL. Algeria, Turkey, East Germany. I could go on. Soviet Union. His company was doing business—

Mr. BACHUS OF ALABAMA. Were these illegal loans? Were those loans which were handled in the same manner as these loans to Iraq without disclosing them too to the Federal Reserve.

Mr. DROGOUL. Generally not, but in some cases, perhaps. I would have to look at the specific ones depending upon—

Mr. BACHUS OF ALABAMA. Did you see this payment to you as a payment because of your relationship involved in these loans.

Mr. DROGOUL. No, I did not. Although I will tell you, to be very honest with you, that—that after 6 or 7 months. I was sensitive to the concept that it might be construed to be something else. Actually, I tried to distance myself and my decisionmaking at the bank from entering the transactions.

Mr. BACHUS OF ALABAMA. At the time you were receiving this third of a million dollars from this Turkish gentleman, what was your annual income?

Mr. DROGOUL. Somewhere between \$125,000 and \$140,000.

Mr. BACHUS OF ALABAMA. So this represented three times your annual income?

Mr. DROGOUL. I would say twice. Also, you have to look at it from a different perspective. It depends upon how much one spends to buy a house if one's salary is X.

Mr. BACHUS OF ALABAMA. I see. Have you disclosed—when did you first disclose these—this third of a million dollars to the U.S. Government or to any of its agencies?

Mr. DROGOUL. I don't recall the exact date.

Mr. BACHUS OF ALABAMA. Have you ever disclosed it on your income tax returns?

Mr. DROGOUL. No, I didn't have a chance to file income for those years.

Mr. BACHUS OF ALABAMA. What?

Mr. DROGOUL. I didn't have a chance to file income tax for those years. On the advice of my then-counsel, I was told not to do anything.

Mr. BACHUS OF ALABAMA. Your legal counsel advised you not to file income tax returns?

Mr. DROGOUL. That's correct.

Mr. BACHUS OF ALABAMA. Did you discuss—I withdraw that question.

Chairman GONZALEZ. Well, if the gentleman would yield, he didn't ask for, but I gave unanimous consent to proceed an additional almost 4 minutes.

Mr. BACHUS OF ALABAMA. I thank the chairman.

Chairman GONZALEZ. But I think one final question the gentleman, if you will join me in asking it, what became of the loan? What is the status of that loan? Did you ever pay it back or pay part of it back or—

Mr. DROGOUL. I have not had a chance to pay any of it back. In fact, I had to declare bankruptcy about 1½ years ago and the proceeds of the home were sold and disbursed to the creditors so there is nothing. I have not had—I have not been in communication with Mr. Tezeller since the end of July 1989.

Mr. BACHUS OF ALABAMA. Mr. Drogoul, could I ask you, did you disclose on your bankruptcy form in which all loans have to be disclosed.

Mr. DROGOUL. No, I did not.

Mr. BACHUS OF ALABAMA. You realize that in not disclosing that on your bankruptcy petition that, too, is a crime?

Mr. DROGOUL. No, I don't think that's how I perceived it at that time at all.

Mr. BACHUS OF ALABAMA. Did you perceive it as a loan?

Mr. DROGOUL. Did I perceive what I received as a loan? Yes.

Mr. BACHUS OF ALABAMA. Did you perceive that you were going to give him a preference and pay that loan back, and is it still your perception that you were going to pay that loan back?

Mr. DROGOUL. I knew there was no preference to pay him back. I had other creditors to settle and I knew since he was well off—

Mr. BACHUS OF ALABAMA. Your intention at the time you filed bankruptcy was not to list it. You were aware of the loan at the time you filed that bankruptcy.

Mr. DROGOUL. I can't really tell you because my attorney is the one who filed the forms for me.

Mr. BACHUS OF ALABAMA. Did you tell him about that loan?

Mr. DROGOUL. Absolutely.

Mr. BACHUS OF ALABAMA. Did he list it on the petition.

Mr. DROGOUL. I don't believe he did, no.

Mr. BACHUS OF ALABAMA. I have no other questions.

Chairman GONZALEZ. Mr. McCollum.

Mr. MCCOLLUM. Thank you very much, Mr. Chairman.

I was here for your testimony, Mr. Drogoul. I am up here. You always seem to worry about where the voices come from with these speakers, but I had to go over to the Rules Committee for a hearing. I missed some of the questions.

I understand a couple of ones that bothered me the most have not really been explored. I want to go over that briefly with you.

You have assisted here in answering the questions I have heard in the last few minutes and in your testimony, which I did listen to this morning that despite the impressions we may have had to the contrary or statements the government has made to us, that you did indeed believe at all times that the Rome office of the BNL was aware of your activities, was aware of these un—so-called unauthorized loans and the off-the-book type of activity you had with Iraq.

Is that not the essence of what you have been telling us today?

Mr. DROGOU. That's correct.

Mr. MCCOLLUM. Now, what bothers me now in light of a couple of things, I want to give you the opportunity to set the record straight.

I want to know whether or not I am misinterpreting or did you commit perjury on June 2, 1992, during your guilty plea hearing with Judge Shoob, when you told Judge Shoob under oath when he asked you about Rome's knowledge of these activities that, "I would say that they were not aware, not specifically."

Mr. DROGOU. That was a general statement because I was not asked and I was also, on June 2, not trying to give names. If you recall the conversations and the dialog between Mr. Shoob—Judge Shoob and myself and my attorney, he was asking for me to name names. That was the thrust of his entire issue.

When I entered into the plea with the government, the government did not want me to name anything at that time, even though the prosecutor got up and said that Mr. Drogoul is welcome to say anything he wishes to you, Your Honor, at any time. They knew very well that I was not going to say anything to the judge at that time. And so I chose to make what I considered to be a general statement rather than a specific statement.

Mr. MCCOLLUM. Well, he was very specific in his question and that bothers me. He asked you several specific ones, specifically this one read like this. Did anybody at the home office of BNL—"Was anybody at the home office of BNL aware of your off-book setup?" And you answered, "I'd say that they were not aware."

Is that a true statement or were you lying to him because you didn't want to answer it or what?

Mr. DROGOU. No, I think that's—that's—well, that is true. I guess what I am trying to say is that Rome was not aware of the specific mechanics of how we were dealing with the loans. But Rome was aware we were lending to Iraq, Rome was aware of a variety of conversations that we had, but they were not specifically aware that we were placing this particular loan on the right and another loan on the left.

Mr. MCCOLLUM. All right. Let me ask you this: In what was—we have as a document before us that says the government sentencing memorandum was filed with the court on September 11, 1992. They go through a careful discussion and I quote from it, "Throughout the debriefing sessions which they say took place with them in 28 separate days of debriefing with you between June 4, 1992 and August 20, 1992, the defendant"—and I am quoting—"repeatedly was asked whether he had told any BNL officer manager or employee or any United States or Italian government official about the off-book operation or the unauthorized loans to Iraq and

others. The defendant responded negatively to every question on these topics."

Mr. DROGOUL. That is flatly untrue, and that's the reason I tried to have my guilty plea withdrawn because I was telling them just the opposite, and they kept writing down on those forms that they have exactly that information. That was the substance of the big dispute that I had with them at that time. That's the heart of the issue.

Mr. MCCOLLUM. Let me ask you a followup to that. It says in the same sentencing document just two paragraphs down, "Drogoul was also questioned at length about United States Government officials, both elected and appointed, who might have had some knowledge of BNL-Atlanta's unauthorized lending. Drogoul did not tell anyone outside BNL-Atlanta it was the off-book operation or the unauthorized loans."

Mr. DROGOUL. Same answer as the last one. I repeatedly was trying to give them names and they wouldn't listen.

Mr. MCCOLLUM. Let me ask you one other question relative not to the issue of BNL-Rome knew generally about it but about the question of these documents that you have been discussing and the way that they were omitted or not. You said that Dr. Sardelli, I guess he's a New York manager, at a given time in this segment that you altered or omitted records to keep him from seeing what was going on as I understand it.

Mr. DROGOUL. That is correct.

Mr. MCCOLLUM. You were testifying, if I am not mistaken, to us today that it was not to keep Rome from knowing, but it was strictly to keep Sardelli from knowing; is that correct?

Mr. DROGOUL. When there was a change in administration in Italy and when the people with whom I had open dialog in New York and in Rome were all of a sudden out of power, I found myself in a new situation. I didn't know what to do. I didn't know who to approach, and before going to Mr. Sardelli, I wanted to see on what side of the fence he was, whether he was with the previous administration or whether he was with the new administration. I just didn't know.

So I kept my distance from him and I didn't give him information, and as my relationship with Rome unfolded even more after his arrival, I was told to keep Mr. Sardelli—let me restate in it a proper way. I was told to deal directly with Rome and to ignore Mr. Sardelli.

Mr. MCCOLLUM. All right. Now at one point, you did prepare a memo to your file for yourself and your attorneys in September 1989 if I am not mistaken. We apparently have a copy of that that was provided to the government after you had your first guilty plea in June 1992 when Judge Shoob questioned you. That's what this is here.

One of the notes that is taken that you apparently took yourself, am I right that these are notes you made yourself to the file, that is the memorandum? I will be glad to show them to you.

Mr. DROGOUL. I think these are notes that were made by my attorney after discussions with me—

Mr. MCCOLLUM. All right.

Mr. DROGOUL. In 1989.

Mr. MCCOLLUM. Let me quote from this, anyway, because I think it is relevant because this is pertaining to the visit that you had to Venice and was apparently during this time you testified earlier that things broke loose back here at home. You came back, and if you didn't say this, is what it is quoted as you saying.

"During my visit to Venice, our regional manager Mr. Guadagnini," if I am pronouncing that correctly, "was criticized by his superior for allowing the Atlanta branch to maintain a considerable excess for Rafidain Bank as noted in the category by, quote, Mr. Guadagnini. My regional manager is that Sardelli. I don't know if it is.

Mr. DROGOUL. No, I think Mr. Guadagnini was—I think was the regional manager at the time.

Mr. MCCOLLUM. My regional manager sat down with me there and told me to clear up the problem. Upon my return to Atlanta, Paul, Therese, Robert, Mela, and I decided that the best way to handle the situation would be to skip the excess amounts off the books on the last day of the month. That is on the day the computer reports were examined by Rome.

Mr. DROGOUL. Correct.

Mr. MCCOLLUM. Why would you have picked the day that the computer reports were examined by Rome to skip the books if you weren't interested in keeping in this from Rome not just Mr. Sardelli.

Mr. DROGOUL. Because Mr. Florio, who is the person who had the conversation with Mr. Guadagnini, who is the very person who approved those same loans for me several months before. And in my conversations with him and subsequent conversations—and in my conversations with Guadagnini and my conversations with the people in Rome about those very loans, it was made clear to me that to protect Mr. Florio whose division was just about to be abolished, I needed to cover for him. And that is, in essence, what I did.

Mr. MCCOLLUM. You needed to protect him from Rome seeing this; is that correct?

Mr. DROGOUL. No, I needed to protect him from the politics that erased him from office.

Mr. MCCOLLUM. But, nonetheless, Rome would not see it. And if they had seen it, then that would have been the problem for him; is that correct? I mean, you—I asked the question about why picking the methods you used to erase this from the computer message that went back to Rome and you are saying to me, you did that to protect Mr. Florio—how do you pronounce his name?

Mr. DROGOUL. Florio.

Mr. MCCOLLUM. Florio. Am I correct in that?

Mr. DROGOUL. Yes. But I think what is missing here is your lack of understanding of the politics of BNL-Rome. I think that is—it is not a—

Mr. MCCOLLUM. All right. I understand—I think I do understand the politics and I understand it's crazy over there and it was and that's why they are having all the scandals but nonetheless, my point is not to go back over that explanation, and you have given twice or three time today, but it was simply to point out that, to me, there is an inconsistency here.

And I know you have tried to explain, but it just on paper is an inconsistency that says that you were trying—on the one hand, you told us to protect Mr.—everything from Mr. Sardelli, but here is an instance where you are telling us on the other hand you are really work—were keeping this stuff from Rome in order to protect Mr. Florio, so it is all to me very difficult to believe everything you are telling us today.

It does affect my judgment. I am not saying you are not telling us all the truth. It may all be truthful. In fact, I know some of it sounds to me logical, but there are problems of your credibility for that reason. I think you know that.

Mr. DROGOUL. Well, that's fine. I accept your comments, but I think you need to understand the amorphous situation taking place at that time and perhaps one of the next witnesses will help you understand that. And also, please bear in mind at all times that after 1989, when I came back, behind me and above my shoulder also, I always had three governments: The Iraqi Government, the Italian Government, and the United States Government involved in these things. And I was not going to try to do anything that was in any way—which in any way would upset them.

Mr. MCCOLLUM. Were you afraid of them?

Mr. DROGOUL. I think, in a word, I have to say, yes. I had concern.

Mr. MCCOLLUM. Thank you.

Chairman GONZALEZ. Mr. Schumer.

Mr. SCHUMER. Thank you, Mr. Chairman, and I appreciate all the work you have done in this area. As you know, my subcommittee looked into some of the more judicial aspects on this on the Judiciary Committee as well.

Mr. Drogoul, I guess what I would say here is that it seems highly implausible that you would be allowed on your own to send this huge amount of money to Iraq. Everyone buys that, or most people buy that, unless BNL was quite a different institution, I mean, than anything we have ever known.

And you say your story and testimony seem to indicate that's the case, the problem I think everyone has here, and the frustration we are all facing is other than speculation, you don't deliver anything specific, a smoking gun, if you will, that shows that to be the case.

Now, can you give me in not something that you thought, you surmised, but in the most concrete terms possible how you can convince us that the Governments of the United States, Italy, and Iraq, as you put it, were all behind you and what you were doing that this was not just a capitalistic enterprise where you made a little money on the side and you are paying the price, but this is far beyond that. That's the key question.

And I don't—you know, I apologize that I haven't been here the whole time, but I have read your testimony and heard recounts of it. I think that's the question most people are asking here.

Mr. DROGOUL. Among the documentation that we were not able to see until the past 3 or 4 months because it was not provided to us from BNL, there was a letter. Actually, I am referring to one letter, but there were several letters from grain companies to the head office of BNL after 1989 who wrote, excuse me, but we don't understand. We have met with you in Rome, we the grain compa-

nies have met with you in Rome on numerous occasions and explained to you on many times the nature of the—the breadth and scope of our relationship with BNL-Atlanta. Now, all of a sudden, you are telling us that you don't know anything about it.

Those are the types of letters that are only now starting—we are only now starting to get.

Mr. SCHUMER. Do they describe the breadth and scope? Breadth and scope can mean a whole lot of things, means it goes all the way to wheat to rice to sorghum.

Mr. DROGOUL. That letter does not, but that statement—we have recently subpoenaed and started to obtain memos from the grain companies. They were commenting and detailing what it is in particular they spoke to Rome about, and those things they spoke to Rome about are precisely the things that we were involved in that were illicit.

Mr. SCHUMER. You are going to have written documentation at some point, you believe, that will show that.

Mr. DROGOUL. We have——

Mr. SCHUMER. Do you have any now?

Mr. DROGOUL. I don't have with me today, but we are preparing a memorandum.

Mr. SCHUMER. Memorandum, again, is not the kind of proof that we are looking from your lawyer to you that someone said this or whatever that would not be admitted in a court of law.

Mr. DROGOUL. We are preparing a memorandum for the court for sentencing which includes as addenda many of those documents.

Mr. SCHUMER. Let me ask you these questions: Did you ever talk to a CIA agent who showed you his or her credentials and said I am a CIA agent?

Mr. DROGOUL. No. No one has done that.

Mr. SCHUMER. Did you ever talk to on—did you ever meet and talk about these matters with Ambassador Glaspie?

Mr. DROGOUL. No, I was introduced to Ambassador Glaspie briefly at a cocktail party, but I never spoke to her specifically about those issues. But if I may comment——

Mr. SCHUMER. Please.

Mr. DROGOUL. Mr. DeJani mentioned to me that he had spoken—he and others have spoken to April Glaspie on many occasions about these very matters.

Mr. SCHUMER. OK. Let me just say again, I think very few people credibly believe that, Mr. Drogo, you made a decision on your own to send \$5 billion to Iraq. I think a few people, but not very many believe that the decision was made on a purely economic basis, shall we say. But until you come up with specific, hard-nosed allegations, as opposed to speculation, you are not going to be able to make your case, particularly in light of the fact that by your own, you know—by your own trial record, that you have accepted bribes, and so forth, been convicted of accepting bribes.

So that is my basic point to you, and it is nice to hear that you think that this and this and this might have happened, or this one said this to you, but you are going to need a lot more than that to prove at least to the country and to the world of the nefarious scheme that many of us suspect might have happened.

Mr. DROGOUL. I agree with you. I do and that in fact is the crux of the problem that I am having. However, in all the things that we have examined, we never really have taken a close look at any of the documentation in Italy or interviewed people in Italy who have corroborated what I have said. Now, recently, in the past, I would say—

Mr. SCHUMER. Why didn't you. Your whole life is at stake.

Mr. DROGOUL. Because we were—only in the past several months we were able to elicit that information. My Federal defender was good but she wasn't that good, and she didn't really know where to strike. And it is only in the past several months that we have been able to subpoena records from BNL which is not very happy about producing documents to us and found people in Italy who were BNL employees and former BNL employees who have corroborated what I have said. But we are still not finished with that.

Mr. SCHUMER. So it is your belief, in any case, for whatever it is worth, that you will come up with the written documentation, the smoking gun, if you will, that will prove your allegations to be true at some point in your process of discovery; is that right?

Mr. DROGOUL. To the best of our ability, we are working to do that, but the focus is in Italy on that, it is not in the United States.

Mr. SCHUMER. Thank you, Mr. Chairman.

Chairman GONZALEZ. Thank you.

Before we recess, I am going to ask the two gentlemen sitting to your immediate left to identify themselves. Are they here accompanying you?

Mr. DROGOUL. They are my personal attorneys, Mr. Jim Tupitza on my left and then next to him is Alexander Murphy, another attorney. Mr. Tupitza is really not just an attorney, he is a personal friend of mine who became involved to try to help me when he found out that my family and I were really suffering, is a former college roommate of mine.

Chairman GONZALEZ. All right. We will stand in recess for about 10 minutes to record a vote.

[Recess.]

Chairman GONZALEZ. The committee will please come to order.

Mr. Drogoul, I am going to go to a fundamental question here. In your testimony, you drew a picture of the BNL as an unorganized, often informal organization where off-book loans or the gray book as you referred to them, were permitted.

What is difficult for me to understand is that BNL-Rome was aware that you had committed the bank to loaning Iraq \$2.155 billion in medium-term loans without seeking collateral from Iraq. In fact, the medium-term loans contained a very low-interest rate and had very generous repayment terms.

The first question: Was BNL aware of the details involving the \$2.155 billion in MTLs uncollateralized loans to Iraq at such favorable interest rates and repayment terms and did you ever provide BNL-New York or BNL-Rome with a copy of the MTLs prior to the BNL raid in August 1989?

Mr. DROGOUL. Well, I think to answer the question, I have to go back to my meeting with Mr. Monaco in Bagdad in 1988. When he was in Bagdad and Paul von Wedel and myself were in Bagdad,

and in our conversation he and I discussed the reasons why we were both in Iraq.

I expressed to him that I was there to negotiate industrial loans now that the war was over. He replied that he was there to start working on the same thing once he himself finalized administrative and rescheduling problems that he had to deal with. And he asked me to go ahead, proceed, and keep him informed of what had been concluded and finalized.

Meanwhile, he said he would work on his own to get as much information from his side as he could. When I returned to the United States, I had a conversation with him on the telephone and laid out, more or less, the nature of the first agreements—the first MTL that we had.

Chairman GONZALEZ. Do you recall the date or approximate date?

Mr. DROGOUL. That was in Bagdad?

Chairman GONZALEZ. Yes, where you met Mr. Monaco.

Mr. DROGOUL. I think it was February 1989. Well, my counsel says February 1988.

Chairman GONZALEZ. Nineteen hundred and ninety-eight.

Mr. DROGOUL. But—I think—yes, it was February 1988 because it was prior to the time that we had completed.

Chairman GONZALEZ. The reason, it's important to my mind, but—

Mr. DROGOUL. It was 1988.

Chairman GONZALEZ. OK. You may continue.

Mr. DROGOUL. And subsequent to that, once he realized—once he realized that we were involved in lending on a medium-term basis to the Iraqis, he—I don't want to use the word envious. He was trying to develop the same kind of business on his end, and trying to wrap up his administrative duties as much as he possibly could with a view to establishing credit lines on his side.

Then the next thing, I am just going to touch upon the highlights here, but you need to remember I was in contact with him and with others in Rome who recommended that we engage in lending to Iraqi—to Italian companies for Iraqi contracts.

After a while, we didn't receive telephone conversations from Monaco anymore—calls from Monaco. We received direct telephone calls from other branches in Italy, tell us they had spoken to Monaco and Monaco had recommended that they speak to us to arrange contracts for their customers with the Iraqis, so it was a series of events that took place over about 6 months' time.

To try to answer your question and be responsive directly, he was aware of specifically of MTL-I. He was aware not of the exact details of MTL-II, but he was aware of the essence of the agreement. He was aware of the amounts. He was aware also of the companies involved in those transactions, especially the Italian ones.

Chairman GONZALEZ. And this Ted Monaco was the bank's official in charge of the Middle East, generally?

Mr. DROGOUL. That is correct.

Chairman GONZALEZ. OK.

Mr. DROGOUL. I think there is another example that I may have mentioned in my statement to you but did not read here, and that

involves the bank's multinational lending area which developed a relationship with Nestle in Switzerland. We ourselves had developed a relationship with Nestle. He visited Nestle. He returned to Rome, called me, thanked me for all the good work we had done in Iraq to help him develop the relationship with Nestle which had just bought Butoni, the Italian pasta maker.

Chairman GONZALEZ. Was Iraq eventually ever going to collateralize these loans?

Mr. DROGOUL. Iraq expressed the matter to me in this manner—the whole issue in this manner. They did not believe that the loans would be 7- to 10-years loans. In the discussions we had prior to the time that we even negotiated the medium-term lending agreements, the Iraqis reasoned that they had approximately, say, 70 or 80 billion dollars' worth of debt. Of that, half of it was what they characterized as inter-Arab debt and, therefore, not to be paid until it was convenient for it to be paid. The balance that they had due was about \$35 billion.

Thirty-five billion for a country like Iraq is not that much when you consider that Brazil has \$90 billion and Poland has \$70 billion and Iraq has the resources to pay that kind of debt over a period of time.

They told me that they anticipated paying off a considerable portion of their debt within 4 years and that it was entirely possible that the medium-term loans would be prepaid by 1994. So they did not articulate that in the documents themselves, but there was discussion of that and perhaps my colleague, Mr. von Wedel, may recall something about those conversations as well.

Chairman GONZALEZ. Yes. That was going to be a followup question, but while we have you, now, what about the fact that Iraq in the meanwhile was defaulting with other governments, European governments? Were you aware of that?

Mr. DROGOUL. I was aware that the Iraqis were rescheduling. I think—really, I think I was wondering whether I ought to impose upon you and try to explain what I saw taking place in Iraq. And what I saw is the United States relationship with Iraq, if you will bear with me for 2 or 3 minutes, I will try to do that.

Chairman GONZALEZ. Absolutely.

Mr. DROGOUL. I will start by saying that I had a conversation once with a woman who ran the grain—not the grain importation, but the foodstuffs importation division at the Ministry of Trade. Her name is Mrs. Aziz and Mrs. Aziz is the sister of Tariq Aziz, the Deputy Prime Minister and the Foreign Minister of Iraq.

In our conversation, she was lamenting the fact that Iraq had really suffered over the 1980 to 1987, 1988 period and she equated that war, the Iran-Iraq war to be equivalent to our Vietnam war. She said that Iraq had lost 250,000 people and that every family in Iraq had been touched by what happened during those years. They were pleased that the war was over.

And she said that the war was—I don't want to state that she said that the war was initiated at the request of the Kuwaitis, the United States, and the Saudis, but they led me to believe that it was the belief—she led me to believe that the Iraqis continued in their persistence of the Iranians in an effort to destabilize the Ira-

nians and to prevent fundamentalism from flowing over into Kuwait and Saudi Arabia.

And that was the position she said of the United States Government and the position of the United States Government was to support Iraq during those years militarily to provide for a defense necessary to defeat the Iranians or to prevent the Iranians from coming through.

Now that the war was over, she said, she was very pleased that the country would be able to rebuild itself and she in that conversation and other people with whom I met at the Central Bank at the Ministry of Industry, the Ministry of Trade echoed the same sentiment, that now the war was over, they and the Western world, particularly the United States and Western Europe, would provide the resources necessary to the rebuilding of Iraq and for the demilitarization, strange as it may seem, of Iraq.

Another point that was mentioned to me was that Iraq had 1 million people in the Army. They want to let—release them from the Army, but those people didn't have jobs to go to. So, therefore, it was necessary before any kind of reduction in the size of the military for the economy to kick in again, and as a result, these individuals expressed to me—Mrs. Aziz being one—they relied and they are were going to rely on the United States to help restore the economy to the level that it should be at.

That, to me, fit in with what Mr. Bush characterized as his attempt to bring Iraq into the Community of Nations. And, I said to—I thought about this off and on. I said to myself, I know the mechanism existed with regard to BNL. But I don't understand why they did it the way they did it.

And I have—I said to myself, if it is true that the United States and the West were trying to draw Iraq back into the Community of Nations, why did they allow the procurement efforts to take place, the opportunity was golden in 1988 for the United States and Germany, France, and England and everyone else to step up to Iraq and say, gentlemen, we know you need to restore your economy. We are going to help you, financially. Here it is.

But we also know that you are involved in this procurement basis and we don't want you fooling around with chemical weapons, biological weapons, and nuclear weapons. Cut that out and we will support you. But they didn't do that.

So I have to question even the thought that the West was trying to bring Iraq into the Community of Nations. I really haven't understood what the motivation is there.

Lost my train of thought. Must be lunch time.

That is right. We were discussing the sense of the repayment. The Iraqis didn't feel—they really felt that they had a lot of resources. They had the ability to repay and they wanted to expand the economy and trade more with United States and trade more with the West. That's the impression that they presented to me. And hence, the MTLs were the justifications supposedly for that. But I couldn't understand why the BNL channel had to be clandestine. In fact, I asked my counsel that only a few days ago. And I still haven't understood the answer.

Chairman GONZALEZ. Well, this committee has adduced documentation and evidence showing some of the surrounding effects

with respect to that which puzzles you, and I guess rightfully, so it puzzles all of us. The history, though, reveals as far as foreign policy is concerned, which is another committee's jurisdiction, that there was good reason for Iraq to feel that the United States was behind it.

Because when President Reagan removed Iraq in 1982 from the list of terrorist nations, it opened the gates for the formation of this large commercial group. And, in fact, one of the more prominent activists in that group is a man of Arabic descent who later was an official of the Houston bank, First City, and who headed one of those commercial trips with 87 of our blue ribbon industrial and manufacturing enterprises comprising the group. But it was because the government's policy was to stimulate trade and try to seek favorable balance with Iraq. But even before the Reagan administration in 1980, the National Security Advisor, Brzezinski, fostered the plan of stimulating and encouraging Iraq as against Iran, even before the outbreak of the war.

And then, of course, the sorry spectacle that has made us the laughing stock throughout the world of, on the one hand, affirmatively and positively and very strongly urging this commercial interchange with Iraq, even to the extent that the CIA entered into agreements to exchange intelligence with Iraq. And the relationship existed until the summer of 1990 and just prior to the invasion of Kuwait by Iraq which was the one triggering factor but which, of course, there again you have all kinds of contradictory statements.

But, it all impacted this committee because we also have jurisdiction of the Export-Import Bank and the Export-Import Bank became exposed to about \$50 million on guarantees and, fortunately, the fact that the national group, interagency group had members representing the Federal Reserve and defense and all prevented any further exposure of those loans.

But one of the things that had to be observed was the statutory requirement that the Export-Import Bank would be limited in extending the guarantees to those countries that had a reasonable assurance of repayment. And Iraq, at that point, became questionable.

I still don't understand, other than the explanation you have given which I think in the context of the environment that existed then. I can understand that. And I can understand the interpretation of the head of this Iraqi agency, Mrs. Aziz.

Now, as to your assistant—and I guess he was your assistant, Mr. von Wedel—

Mr. DROGOUL. Yes, that's correct, my assistant.

Chairman GONZALEZ. What about him, now, he cosigned the first two, MTLs, but he refused to cosign the third and the fourth. Do you have any idea or did he make any statement with respect to his refusal of that third and fourth loan?

Mr. DROGOUL. Mr. von Wedel was not as involved as I was really in the dialogs with Rome. He saw as no doubt my other colleagues saw in Atlanta only a part—they saw the activity but they didn't understand fully the activity or why it was taking place.

And I think Mr. von Wedel didn't understand when we got to the third and fourth medium-term loan the nature of the beast. He

didn't understand that Rome was suddenly behind this and I didn't want to compromise—I explained to him, as best I could, but did not go into too much detail because without firsthand discussions with him, he wouldn't have—he wouldn't have accepted my explanations.

Chairman GONZALEZ. But, still, the question remains: Why did he refuse to sign the last two, whereas he signed the first two?

Mr. DROGOUL. Because the amounts were probably staggering and they were—and they were off-book and they were not for—I think I would like for Mr. von Wedel to answer that question, but as Mr. von Wedel said to me once, as long as it was CCC-related business, he didn't see any problem because it was for grain and commodities.

Once we started to deal with industrial matters, and once he had a sense that there was something perhaps beyond just industrial matters involved, that is to say programs military involvement, I think he didn't want to have anything to do with it, and I understood that. I, however, was in a different position. I was manager of the branch. I was responsible for all these loans. I had the dialog with Rome and our positions were different.

Chairman GONZALEZ. Well, Mr. Hinchey, I noticed you have some additional questions.

Mr. HINCHEY. Thank you, Mr. Chairman.

Mr. Drogooul, I just want to express my appreciation for the patience and the gracefulness with which you have responded to the questions that have been put to you today by the members of the committee: I am interested, frankly, in the way you seem to have been manipulated and also in the way in which the Justice Department of the United States has apparently failed and, also, in the apparent illicit use of Federal agencies to accomplish certain foreign policy objectives and now apparently domestic policy objectives.

Was there a time when BNL provided more than \$2 billion directly to Iraq specifically to a procurement network that was designed to obtain certain kinds of weapons, particularly chemical, biological, those kind of specific weapons systems?

Mr. DROGOUL. Are you asking me whether or not the medium-term loans were specifically used for military purposes?

Mr. HINCHEY. Yes.

Mr. DROGOUL. Initially, when we—you must remember, initially, when we signed the loans and became involved in those loans, the first agreement was signed by the Ministry of Trade, not by the Ministry of Industry. And, really, we thought and Rome told us that these activities were for the economic rebirth of Iraq.

And the question was asked to me earlier about the petrochemical plant that we went to visit. Even when I went to visit the petrochemical plant in Basra, I really didn't think that it had military application. But once I visited the first or the second Bagdad military fair, that we didn't think we were going to be a party to. But all of a sudden, we became a part of and saw that the companies that we had financed under the MTL Programs were all present as exhibitors at the fair. I think then Paul and I realized more or less what we were involved in.

Mr. HINCHEY. When was that?

Mr. DROGOUL. When was that?

Mr. HINCHEY. Yes.

Mr. DROGOUL. That was the 1988—no, I'm sorry. That was March 1989. And that perhaps addresses to some extent Mr. Gonzalez' question about why Mr. von Wedel may not have felt comfortable in the third and fourth agreement. We had a sense as things evolved that we were moving toward the financing of military things. And I wasn't comfortable about it, but I couldn't do very much about it. I was boxed in. Paul was in a lesser position. He could revolt and he did.

I am going to digress and say BNL traditionally has a history of financing military transactions. And in fact, in the course of the eighties, I thought—and the Italian Senate has used the word "routine" about my filings of letters of credit from the Italian Government financing sidewinder missiles and that's more or less how I felt. I really realized that the Italian Government used BNL to finance a lot of its military transactions, military hardware.

Another transaction that comes to mind involves—and this was in the Spider's Web recently. I have only recently read about this, but in the book written by Mr. Freidman recently, he mentions a 1985 transaction that passed through the Singapore branch of BNL involving cluster bombs, I think, or cluster mines, all financed by BNL for the Central Bank of Iraq in 1985 and there is kind of—if you look at the entire record, you see a pattern of transactions where the bank has been involved in military—in transactions of financed military applications.

And to answer Mr. Schumer's question when he asked me earlier and really made a statement, he said until you really investigate this thing properly, there will be some people out there who will not believe you. Unfortunately, that is true. But my defense team has not had the resources to investigate this entire issue as it needs to be investigated.

If there had been an independent prosecutor, I believe that things would perhaps have been different, but we didn't have that luxury. So every time we stumble across a bit of information, we use it. It starts to fit a pattern, but it has taken us a long time to come to the conclusions that we finally come to. And one of those is that BNL has always been involved in transactions that support its government when it relates to military matters.

Mr. HINCHEY. So after that experience at the fair, you were very much aware that the loans that were being made through BNL were in fact going to purchase, at least in part, military hardware?

Mr. DROGOUL. Well, the last agreement was for—went principally to finance a General Motors-Volvo truck plant. And at the time that the transaction was proposed to us we thought that it was for a truck plant. But as we thought about it and we—and having recalled that we saw a General Motors trucks at the military fair.

We had the sense that it was perhaps military, but at the time, that was—we are not talking about 1991 post-Persian Gulf war, we are talking about pre-Persian Gulf war when financing and supporting Iraq seemed to be the thing to do.

So we didn't think there was anything unusual about it. Remember, also, that this entire exercise was being championed to a great

extent by Rome officials. So we really were just following orders as best we could.

Mr. HINCHEY. I understand that you were—you were working for a bank that loaned money for various purposes, and that some of those purposes might have been for military hardware in certain circumstances and that that would not be regarded by you as being entirely unusual.

But I am interested in how that came about and how you became aware of it and to what extent, if any, you at some point became aware that the Commodities Credit Corporation or other U.S. agencies were being employed to help finance those military purchases?

Mr. DROGOUL. Well, again, that was a question that was asked earlier, and I really cannot say that I thought that the grain that was being shipped to Iraq through Jordan was being diverted for the purchase of arms.

I mean, if you were to ask me that question 2 weeks ago, I would have said to you, I don't think so. But after I read the statements by certain BNL executives on the matter who have commented affirmatively that in fact that was—BNL executives, of all people—that that was taking place, I can now say, who really knows? And the only way to know is to investigate the issue in Italy.

Mr. HINCHEY. How did you become aware that the Miami branch was involved in the transaction with the attack helicopters.

Mr. DROGOUL. That transaction, if I am not mistaken, was proposed to us initially and we declined to do it and I think Mr. von Wedel was the one that came to me and outright said, These helicopters, look at the description of the helicopters, these are armored-plated helicopters. They may not have guns on them, but they are for military purposes. We declined to handle the transaction.

Mr. HINCHEY. What was the origin of that proposal?

Mr. DROGOUL. You will have to ask Mr. von Wedel. I can't remember. The origin of the proposal, I don't know. But the transaction itself involved Agusta helicopters, which are Italian helicopters, Bell Agusta helicopters, and I think our Miami office ultimately financed that transaction.

Mr. HINCHEY. Did your branch finance a transaction involving Sidewinder missiles?

Mr. DROGOUL. We did. That is one of the transactions that routinely came through the Atlanta office. We would receive periodically letters of credit from the Italian foreign exchange division of the Central Bank of Iraq for the Security Assistance Accounting Center in Denver, Colorado, and we could not tell from the documentation specifically what was being shipped always, but after a few bits of correspondence went back and forth between the Embassy of Italy and the military attache of the Italian Embassy in Washington, and the Security Assistance Accounting Center, we recognized what they were for, and they would mention sometimes the exact nature of the goods being shipped, and on one transaction the name Sidewinder missiles popped out.

Interestingly, about 280 of those Sidewinders have never been accounted for.

Mr. HINCHEY. Those Sidewinder missiles were shipped from Colorado?

Mr. DROGOUL. They were shipped from the United States. The letter of credit did not call for the presentation of a specific document showing where the missiles were shipped from; it only called for a document stating that it was all right for us to pay letter of credit. That document came from the military attache of the Italian Embassy in Washington.

Mr. HINCHEY. Were you informed as to their ultimate destination?

Mr. DROGOUL. No, I was not. I assumed that they were going for NATO purposes, but I have since heard that perhaps they were going to another destination, and at the risk of making this sound like hearsay, the country I heard was Iraq.

Mr. HINCHEY. Have you been contacted by people who are conducting investigations of this kind of activity at any time, independent investigators?

Mr. DROGOUL. You mean——

Mr. HINCHEY. Whoever inquired of you as to information that you might provide?

Mr. DROGOUL. You mean reporters, you mean independent——

Mr. HINCHEY. Yes, reporters, people like that.

Mr. DROGOUL. I am in contact periodically with people of that sort, yes. I mean, I don't understand the question. The answer is yes.

Mr. HINCHEY. Thank you.

Mr. DROGOUL. Simply because we don't have the resources to investigate everything that needs to be investigated ourselves, so if we can obtain information of a reliable source from a reporter, an investigating group, we do that.

Mr. HINCHEY. Thank you very much.

The CHAIRMAN. All right. The gentleman from New York raises some very interesting aspects of this. At the bottom of it all is financing banks, that is the bottom of everything. Wars, hostage taking, hostage releasing, and while we were pursuing the policy or the change in policy of assisting Iraq against Iran, we then get the revelation in 1986 of the TOW missiles to Iran, proceeds of which were going to be used for the Contras to evade congressional prohibition. But at the bottom of it is financing.

It is interesting that at the same time and during the course of that war, it was a Silkworm missile from Iraq sources that torpedoed the *Stark* with 37 American sailors losing their lives. How was that financed? That was a Chinese missile.

Where did the Chinese get the patent or whatever you want to call it, the license? Well, from us. That was part of the two trips that two Presidents—one President on two occasions and two Secretaries of Defense made to China.

Was a report ever given to Congress? No.

And the reason the gentleman's questions are very interesting is because we have still not learned anything. It is still possible to have this, and in the case of Churchill Matrix in Ohio, which had an account with the U.S. Army, the high Iraqi officials of intelligence actually came in, and through their purchase of at least better than 30 percent of the stock, had access to the blueprints of the 155-millimeter casing which they transported to Iraq. All the while, they were seeking these other forms of financing.

But nevertheless, where were our agencies? Supposedly, supervising, overseeing, regulating, and trying to protect the national public interest.

And the reason for the insistence on these hearings is to elicit the information we need to further refine and perfect our regulatory and supervisory system which at this point is still highly vulnerable. And yesterday's testimony I think should be disturbing to every one of us here, and especially those that were here in the last two Congresses.

But one final question. Have you finished?

Mr. HINCHEY. Yes, Mr. Chairman. Thank you.

The CHAIRMAN. One final question that I would like, and I am going to ask unanimous consent for myself and other members to submit questions in writing to you, that you can reply to by the time you receive the transcript of the proceedings of this hearing.

But this question—well, Mr. Castle asked you about your dual citizenship and your father. He is in Paris, is he not?

Mr. DROGOUL. Bordeaux.

The CHAIRMAN. Oh, OK. Well, one thing that came to our attention some time ago with respect to your father, were you aware of his relationship with TDG, the Technical Development Group? And are you aware, or is it to your knowledge true, that TDG gave a \$100,000 consulting fee to your father?

Mr. DROGOUL. I introduced TDG, and in particular, Mr. Habobi, to my father on the occasion that I was in London to discuss some project that Mr. Habobi had in mind for BNL-Atlanta, and on that occasion he was discussing with me the fact that Iraq was planning to purchase an investment in an iron ore facility in Mauritania, and just haphazardly I remembered that my father years ago had gone to Mauritania and had done some work in that country on that particular facility.

And I remembered that my father had said that it was a facility that was old, it was—it would soon be devoid of any valuable ore, and yet the Iraqis were planning to spend something in the order, I think they mentioned something in the order of \$700 million to purchase that facility, because there were close relations between Mauritania and Iraq. And in that conversation, I said to Mr. Habobi that he really ought to think twice about it and he ought to speak to someone who knew exactly what that was all about. He seemed interested and asked me, and I said I shouldn't even start to do this, because it involves a family member, but if you have interests, talk to him. Just call him up, talk to him, and see what he says.

At that point I called my father right there on the spot, mentioned Mauritania, and he said, Sure, I would be happy to talk to anybody about the Mauritanian facility. He had in years past done a survey on that very facility, and Habobi asked him to look at it and write a report that he could submit to Baghdad about it. Unfortunately, that report that my father wrote apparently was not very glowing. He recommended that they not purchase the facility for a lot of different reasons.

And that was—and the payment that you are referring to, I don't know the amount of the payment, I don't know the details at all

because it did not involve me, but that is really the underlying source of the payment.

The CHAIRMAN. But you were aware that Dr. Safa Al Habobi was also a highly placed military official of Iraq.

Mr. DROGOUL. In the middle of 1989, here is what I was told about Mr. Safa. I was told that Mr. Safa was the checkwriter, I think that was the expression that was used, he was the checkwriter for Mr. Hussein, and that whenever the Government of Iraq wanted to engage in any sort of project, they employed the services of Mr. Habobi.

The CHAIRMAN. Well, what about Hussein Kamil? Did you meet him?

Mr. DROGOUL. I met him on two occasions on one visit while we were there. One occasion was a protocol visit where we shook hands with him, he explained to us a little bit about Iraq and explained to us how grateful he was that we were helping in the re-birth of Iraq after the war, and then downstairs later on that afternoon or the following morning, I shook his hand as he was walking out the door.

I think in total the first meeting lasted 30 minutes, and the second meeting wasn't really a meeting, it was just a handshake as we left—as he was leaving the premises.

The CHAIRMAN. But these two gentlemen, very high-placed military. Now, of course, they have the Ministry of Industry and Military Production. So you know, it all depends on what they are putting on at what time. But nevertheless, you have answered the question.

Really one final and that had to do with this gentleman I mentioned in Houston, Mr. Aboud, and the First City Bank. Did you ever talk to him about setting up a \$2 billion industrial development fund for Iraq?

Mr. DROGOUL. I don't remember exactly the date; it may have been—maybe your records are better than mine on that. But it was either in late 1988 or early 1989 that we were—that I was approached by Mr. Dejeni, who sent me a fax and indicated that he was working on putting together a \$2 billion facility for Iraq so that they could continue their Industrialization Program.

He mentioned to me that he had spoken to the Texas bank's representative in London, whose name escapes me at the moment, and that that individual had spoken to Mr. Aboud, and that Mr. Aboud had planned to meet with me and a few of the Iraqis on their next trip to the United States to discuss the implementation of that kind of a facility.

I never finalized the meeting with Mr. Aboud in Texas, and I think the matter just dropped out of sight.

The CHAIRMAN. So you actually did not meet with Mr. Aboud?

Mr. DROGOUL. No, I did not.

The CHAIRMAN. All right, sir. Well, really, before we let you go, there is one more question.

There was some plan to move the Atlanta agency to Chicago, and you protested that on the basis that the Atlanta agency was a very profitable enterprise yielding \$3 billion to BNL. But what appears to be a contradiction there is the role of Mr. Pedde, to whom you protested. Could you enlarge a little bit on that?

Mr. DROGOUL. Well, I think initially, I think what you are describing is the tail end of that entire set of events. What took place initially was that I went to New York for a managers meeting sometime at the end of October 1988 I think. I think that is correct, and in that meeting I had a private meeting, more or less private, with Dr. Pedde and a few of his people, and he asked me where I wanted the branch to be relocated. He said I had been in Atlanta for 7 years, it was time for me to develop business, and in particular, since we were developing so much business with the big multinationals in the United States, it was time for me to move to a bigger city.

He initially recommended New York, and my—even though I did want to return to New York, my inclination was not to return to New York while Mr. Sardelli was there, so I told him that New York was not an option at the time, and he proposed, and he, that is Mr. Pedde, proposed Chicago. Well, which would not have been my first choice.

I understood in the conversation that it was—it would represent an enlargement of our activities in developing multinational business. It was an enlargement of the scope—it wouldn't result in the enlargement of the scope of our Iraqi activities also, I understood that, and really, I didn't sense that I could say no. You know, when your managing director tells you Chicago sounds good to me, you go to Chicago. So I had tentatively accepted the idea and returned to Atlanta.

When I returned to Atlanta, virtually everyone, except for two or three people who were in opposition, Mr. von Wedel, I think, expressed a view that he had worked for a number of years here in Atlanta and built up the branch; he didn't see why all of a sudden he should be forced to move from the Southeast to Chicago. Other sentiments were echoed which were similar, and ultimately those people in the branch decided that they would not be going to Chicago. If I was planning to go, I would be going alone with one or two people.

At that point I expressed to Mr. Lombardi and Mr. Pedde that the option that they proposed was viable, but it wasn't going to be viable in the timeframe that they sought, and if they wanted us really to move to Chicago, we would have to hire new personnel, because the personnel in Atlanta were not planning to come with me to Chicago. So I wrote a letter—I think that is what you are referring to—telling Dr. Pedde that there was a need to forestall the decision to move to Chicago.

The CHAIRMAN. Thank you very much.

Mr. Hinchey, do you have anything additional?

Mr. HINCHEY. No, I do not, Mr. Chairman. Thank you very much.

The CHAIRMAN. OK. Thank you very much.

Mr. Drogoul, thank you very much and your attorneys. We deeply appreciate your cooperation with this committee, and we will proceed in communication with your attorney as you seek and obtain additional and relevant documentation with respect to the BNL's activities in Atlanta.

Mr. DROGOUL. Mr. Chairman, thank you very much.

The CHAIRMAN. We have our next witnesses, but we are also on notice that we have a regular 15-minute vote, and then immediately following that what we call a 5-minute vote. So it may take just a few minutes longer to register the vote and come back. The Chair wishes to continue and call up panel 2, but if some conference is desired, I would suggest a side room where the staff director's office is.

We still have the second panel. We have Mr. Paul von—I pronounce it Wedel, but it has been pronounced Mr. Wedel, former trade finance officer of the BNL-Atlanta; Ms. Jean Ivey, the former lending officer of the BNL-Atlanta; Ms. Mela Maggi, former money market trader of the BNL-Atlanta; Mr. Luigi Sardelli, is the former regional manager of BNL's North-Central America, formerly sitting in New York, New York; and Mr. Giuseppe Vincenzino, former employee of BNL.

In case there are some persons in the audience that are awaiting the Subcommittee on International Development meeting that was scheduled I believe at 2 p.m., they will be meeting in 2359, which I believe is Judiciary. It is in this general area up on the third floor.

In order to expedite the proceedings, because we will have to be leaving shortly to record our votes and then come back, I am going to ask the witnesses to stand and be sworn in.

[Witnesses sworn.]

I wish to again in the name of this committee thank each and every one of you for cooperating and answering the summons in our efforts to conclude our report and perfect legislation that our counsels and staff have been in the midst of preparing. I believe that in order not to interrupt the testimony of any given witness, we will go on ahead and recess briefly to allow the members, some who may be coming back after these votes, to the committee room, and those present, like Mr. Hinchey and myself, to record our vote. So we will stand in recess for approximately 10 or 12 minutes.

[Recess taken at 2:05 p.m.; reconvened at 2:30 p.m.]

The CHAIRMAN. The committee will come to order. If there is no objection, the Chair intends to recognize the witnesses in the order that I introduced you, so we will recognize Mr. Paul von Wedel—how do you pronounce it?

Mr. VON WEDEL. I pronounce it von Wedel.

The CHAIRMAN. Von Wedel, OK. We will recognize you first, sir.

STATEMENT OF PAUL VON WEDEL, FORMER TRADE FINANCE OFFICER, BNL-ATLANTA

Mr. VON WEDEL. Mr. Chairman, I don't have anything prepared, any written prepared statement, so I would be open to any questions that the committee would have.

The CHAIRMAN. All right, sir.

Mr. VON WEDEL. At this point, if you would like, I would expand upon some of the things that Mr. Drogoul commented on, if that would be helpful.

The CHAIRMAN. If you wish to give a verbal extemporaneous opening statement, that is fine. If you would rather defer until we hear from the other witnesses to see if they have testimony to give, and then go into the question period, either way. But if you wish

to make a brief comment in the nature of a verbal statement in lieu of a written statement, that is fine.

Mr. VON WEDEL. Well, I don't have any, so I will defer until the questions.

The CHAIRMAN. Fine. Thank you, Mr. von Wedel.

Mr. Sardelli.

STATEMENT OF LUIGI SARDELLI, FORMER REGIONAL MANAGER, BNL-NEW YORK

Mr. SARDELLI. Mr. Chairman, I am here today with mixed feelings, if I may say so.

The CHAIRMAN. Pardon me?

Mr. SARDELLI. I am here today with mixed feelings.

The CHAIRMAN. I understand.

Mr. SARDELLI. On the one hand, I am here in one of the Halls of the Congress of the United States of America, the land of the free and the brave, and I thank you for that. This is the land to which my wife of 34 years and I contributed three American citizens, one of whom was of the right age to go to war during the Gulf war, should the need for his country have risen to resort to the draft. On the other hand, I am worried. Italy, the country that gave me birth is not going through the best of times, euphemistically speaking. And I am worried that whatever I am going to say will be construed as a disservice to that country by the people who habitually are self-appointed keepers of the medals of merit or demerit which they distribute in accordance with their whims and invariably to the wrong person.

Let it be known, if I may, Mr. Chairman, that historically my family has huge ties with Italy. Without being a convict, my father spent 8 years in jail and confinement. He was fighting tyranny. My uncle, he went 17 years in exile. He was no crook. He was one of the last members of the Italian Parliament who in 1926 stood tall against Fascism on the Italian Hill. My father was the first mayor after liberation of Italy's temporary capital city.

I was an interpreter with the allied military government after I had spent some time underground helping my father fighting the Fascists first and the Communists later, and it cost the family's fortune. My father's fellow citizens rewarded him (and that is absolutely all he got in return for 21 years of deadly struggle) by naming one of his hometown streets after him. I went to work. I paid my way through college, working anywhere between 14 and 16 hours per day to honor both commitments.

When I finished my college year's summa cum laude and finished my master, the chairman of the financial and fiscal policies department of my alma mater offered to me to be his assistant. I accepted the position, except that later BNL came since they were looking for people of that nature. I accepted a training position at BNL which was not handed to me, which came to me out of my strive for excellence, which I think is not only right, but is also a duty, because if we want excellence in somebody else's house, that is cheap talk, isn't it?

The Honorable Judge Shoob spoke lately about cultures. Being the gentleman that he is, he undoubtedly knows what he is talking about. What is allowed here is not allowed there. What is legal

here is not legal there. In my opinion, the only two components that don't change in the BNL-Atlanta scam are truth, which invariably hurts, and the global financial economy that ends as soon as problems arise.

This much having been said, I thank you for your attention, your patience, and for the minutes that I wasted talking about my personal matters. Let's see whether we can talk about the truth without hurting too much.

There is no malice in what I am saying, in what I will be saying. There can't be: I am a Knight of the Republic of Italy and I am only calling the shots as I see them, as they came to me, and as I tried to manage the way that they came. I am also sorry for imposing upon you my accent, which doesn't make a native of me by any stretch of the imagination, right? So if I am not too clear, please, interrupt me.

The CHAIRMAN. We will.

Mr. SARDELLI. The first question that you asked me is: "What were your duties at BNL?" As the excerpts from a bank's memorandum dated March 1989 shows, I was 1 of 11 of BNL joint central managers up to July 11, 1989 when I left the bank over irreconcilable differences with both the chairman and the managing director, represented by divergence of philosophies, strategies, and management of the bank's resources and assets, especially abroad, where I had spent 18 of my 33 years of service at the bank; 18 of those years had been spent in the United States of America. To give an example of the differences, in March 1989 they would have liked me to direct the Los Angeles branch to engage in real estate and more CCC financing.

Contrary to the uneducated guess of people whose primary business has lately been twisting the truth, mine was not a middle management position. As a matter of fact, it was one of only four positions in the management of the bank expressly mentioned and covered by the then BNL by-laws. From July 1987 through March 10, 1989, the day that the then managing director openly made his decision to remove me from New York; a decision, the propriety and wisdom of which on July 4, 1989 I contested in front of the labor magistrate in Rome, Italy (where I also lodged for the record correspondence showing that I had alerted BNL-Rome of high irregularities in my area).

BNL's regional manager and executive vice president for North-Central America, then comprised of five branches and/or agencies, four representative offices, one affiliate bank, one trading company, one company for the issuance of commercial paper. The area also encompassed one offshore finance facility (Curacao), in which, however, I was never allowed to play a role.

I came to New York on July 4, 1987 on an urgency basis to replace my predecessor who had been in the same position for 18 years. Needless to say that everybody at BNL had known for years that he was going to retire on July 17, 1987, but chose to do nothing until the last day.

I came to the management of the area of North America, having left the management of the area of the Far East and Australia that I had created out of nothing during my 5-year tenure. When I left there the bank had one merchant bank with 2 branch offices for

a total of 11 offices between branches and financial offices. Spanning from China to New Zealand and from Pakistan to Japan, it encompassed something like 17 countries, 2 territories, and half the population of the world. I was enjoying it.

And yet at the end of June 1987, then, M.D., Prof. F. Bignardi, told me that I had to come to the United States of America because every time that he mentioned my name in New York, he thought it was the name of an Italian laxative because everybody was running for cover. I told him that I didn't consider it a compliment. But since he, like other managing directors, could not speak English, he thought that he wanted to have a firsthand idea of what was happening from a reliable man.

Little did he know that 3 months after he had appointed me, he was appointed someplace else. A politician had in fact readjusted the dunes of the Italian financial landscape and Prof. Bignardi has moved someplace else. Thus, almost immediately after my arrival in New York, I was notified that due to the appointment of the new managing director (Mr. G. Pedde, who had been appointed to that position after 2 hours of conversation with the then Minister of Treasury, when it usually took between 6 months and 2 years), the duties so far discharged by the regional manager would be drastically reduced and changed.

By the way, I don't know how much you follow things Italian. If you read their newspapers today, you will find that whomever was in power yesterday is having today a few mishaps and bouts with justice.

At any rate, he was appointed managing director of the bank and proclaimed immediately that the only "quality" he recognized was loyalty to him. He claimed that he was the relative of a number of people, all of them in power then, including Mr. F. Cossiga, the President of the Italian Republic. He claimed to me that he was also the cousin of Mr. Berlinguer, the then powerful head of the Italian Communist Party. In fact, Berlinguer and Cossiga were cousins. Whether or not Pedde was the cousin of these two people, I don't know. He told me so. He expected me to drop dead at the revelation, which I didn't.

As I was saying, the duties so far discharged by the regional manager of the N. & C. America would be drastically reduced and changed from a situation where each of the branch and/or affiliate managers and personnel were directly answerable to the regional manager (whose staff then numbered about 37 people, including the regional comptroller and the regional auditor), to a new format that would call for the New York branch to perform the role of the mother branch to Chicago, Los Angeles, Miami, and Atlanta, which ancillary branches, if we may designate, or peripheral—let's agree on one term—which peripheral branches or agencies were going to answer to the New York branch, the mother branch.

Whereas this was the new format for the New York branch, the regional management staff had to be reduced from 37 to 1, excluding the regional manager. Since by now (October, November 1987) I was the only survivor in BNL's central management with any foreign experience and any command of the language, I was afforded the honor of giving the final revision to the draft of the corporate resolutions to be adopted for the change that had to occur in the

area. Since mine was the last revision, mine is also its authentic interpretation.

I returned it with my corrections, accompanied by a letter dated December 29, 1987 which nobody wants to read now, that in clear terms told the managing director that we were entering into untested territories, that judging from the dismal situation in the area, it would take me anywhere between 12 and 18 months to implement the new format.

It had taken the usual big fee consulting firm 2½ years to concoct the medicine. Everybody who has converted into action a new plan knows that it needs a timelag within which he has to phase out the old and put in the new.

I told the M.D. through the appropriate channels that as far as I was concerned, I thought that it would take 12 to 18 months, to implement the new format depending upon the caliber of the man that the Rome headquarters was going to send to New York to cover the position of the New York branch manager. The one that was there in December 1987 and had been there for the last 18 years was about to retire (January 18, 1988), which means that almost simultaneously the regional manager and the branch manager of the now mother branch would have been changed. I told H. O. Rome that if the man who was coming to New York was (as it happened to be) that which had been rumored—he had never held a management position, did not know a word of English, also difficulties with technicalities, was long on name rather than substance, had been promoted three times in 6 months whereas at BNL, it really took a genius to make it in 3 years, then surely he was inadequate for the position that he was going to cover. Except that Pedde's party protege he came.

I also said in my letter that I would have difficulties in giving a New York headhunter the job of finding a man for that position. The new format also allowed each and every one of the three divisions, the commercial, the financial, and the administrative division, into which all the branches had been partitioned, to directly liase with the corresponding division at the Rome head office level, thus bypassing the New York branch manager, let alone the regional manager. To add to the confusion, a letter dated June 1988, signed by both the chairman and M.D. authorized any branch manager, domestic or foreign, to liase directly with H. O. Rome.

Excuse me. Am I clear? Am I going too fast?

The CHAIRMAN. I am following.

Mr. SARDELLI. Because I mean I understand that I—but I can talk only about the things that I know. Maybe to the chagrin of the people who would like me to talk about other things, but I don't know them and I refrain from talking about what I don't know.

To me the new format was frightening. It meant that the chain of command was somehow being dented. Like I had always been frightened by the bank's by-laws here it gave the managing director the power to authorize lending for unlimited amounts when the executive committee was not in session, with the only covenant that he had to report his action to the executive committee. I am not suggesting anything improper, I am reading the by-laws.

The resolution changing the format of the area was adopted on January 20, 1988, and it was brought, to my knowledge in Feb-

ruary 1988 upon my returning from yet another trip to Australia where I was still cleaning the mess created in the bank's merchant affiliate by the protege of BNL's then chairman of the board. The January 1988 resolution was meant to remove me from each and every operative task or duty which was transferred on to the New York branch manager, a position from which I was kept far away, covered until July 1989 by Messrs. F. Misasi, S. Felori (as acting manager), and C. Vecchi in that order.

Before I came in front of this distinguished committee, I thought that in the interest of speed I might have used an English translation of the corporate resolution which I am referring to as it appeared in the Acts of Parliament of the Senate of the Italian Republic translated into English and which found its way in the "Lacey papers," of which I barely knew the existence until Chairman Gonzalez called my attention to it with his letter of October 19, 1993.

To the best of my knowledge and belief, I say that that translation is so full of inaccuracies that in the end, one is left with the uneasy feeling that somebody may have tried to rewrite history in an attempt to reallocate responsibilities.

I think—here—what is in red in my opinion is not accurate. And I am talking about the translation. No malice intended, the translation is inaccurate.

And also when we point at some of the not-so-microscopic inaccuracies after all, unless one is here at the hearing today, unless you are at a court of law where these things are extensively dealt with, who is going to know that the following statement contained in the translation is untrue?

Quote, on January 7, 1988, the BNL board of directors passed the resolution in reaction to the Atlanta affairs. Unquote. Should I repeat it again, Mr. Chairman?

Chairman GONZALEZ. Please.

Mr. SARDELLI. A BNL board resolution dated January 7, 1988? It was also dated January 20, as a matter of fact. I have the Italian version. With a signature of the man that was to be—had to be the New York branch manager. The translation says, quote, On January 7, 1988, the BNL board of directors passed a resolution in reaction to the Atlanta affair. Unquote.

January 7, 1988? In reaction to the Atlanta affair? Everybody knows that the Atlanta scam was uncovered in August 1989. That translation continues: Quote This change was meant to be experimental. Unquote. That's a lie. Was toying with the life of 300 families?

This is a very untrue statement, Mr. Chairman. It was never told to me like that. On the contrary, all subsequent correspondence shows that the change was as permanent as an epitaph on a tombstone. Had not the change been permanent I could have packed my family's belongings and I would have gone back to Rome then in January 1988. When there was still ample time for no hard feelings.

I tried to contact Webster's, to make them aware that according to the translation, "synergies" became "harmonious interactions."

I question the propriety of having left unchallenged in the translation the statement of one of the New York branch managers, that

he refused to supervise the area branches because the January 20, 1988, board resolution had not been followed by the implementation action, which is not true. In the first place, he had been hired precisely to do that, so he would have had instructions directly from Pedde.

Second, never before had he managed a branch, let alone a mother branch so that it is safe to say that he did not know where to start. You have only to look at all the order of service dated October 1988, which I issued, to realize that this statement is simply not true.

Finally, the Senate papers as translated, because I am talking—excuse me. I am talking about the translator. I am not talking about the Senate committee yet. That is clear, isn't it, Mr. Chairman? But then, the translation of the Italian Senate papers came into the Lacey report and when garbage goes in, garbage goes out. And this is unedited garbage the way I see it.

So, the Italian senate papers as translated, give credit to the fantasy that the change was meant to be experimental. It sounds astonishing. In all fairness to the translators, I must say that theirs is an horrendous task.

Let me, Mr. Chairman, mention the most—the simplest financial instrument. I am talking about a "check." Here it is the check. Over there it is an "assegno." How dramatically, how monumentally different the legislation that governs those instruments. Here, in the United States of America a "check" is merely an order that I, the depositor, give to my bank. I can countermand it any time that I want. In 6 months it is going to be stale. I don't even have to stop payment on it.

In Italy, the "assegno" is an abstract title, that is an instrument disconnected from the transaction, so that unless very exceptional circumstances arise, a bank will not be in the position not to honor it because the depositor can't stop its payment. When the translator translates "check," in Italy, they understand "assegno" and unless you know both commercial laws, the confusion obviously arises.

But anyhow, what I want to really say is this, that if I take the Italian translation of September 1988 auditing reports on Atlanta, those that surfaced in Rome on July 10, 1989 almost on the day that I was leaving the bank, I must admit that if I had to make up my mind on what was going on in Atlanta from those translations, I can assure you I would have been totally at a loss so much were they incomprehensible in Italian to me.

I can assure you, Mr. Chairman, I know better Italian than English. True that those reports in English landed at the head office around March 1989 at tables manned by people who supposedly knew English. His boss, Lombardi's boss, said that they were on Lombardi's desk. But this is something that I left for you to further investigate or something to that effect.

I will now turn to question number two. Sorry. I shouldn't say these things. If at any time you feel that you should interrupt me and give other witnesses the benefit of it, I understand.

Chairman GONZALEZ. If it would be possible to summarize, because we still have other witnesses.

Mr. SARDELLI. I still have things.

Chairman GONZALEZ. You still have three more questions. But let me break at this point and we can come back to you. We have got to move on. If you would be willing to present for the record——

Mr. SARDELLI. I would.

Chairman GONZALEZ. Copies of the resolution and the mail of the Lacey report and also you mentioned the fact that there was a profit resolution of January 7, 1988.

Mr. SARDELLI. There never was, at least not to my knowledge.

Chairman GONZALEZ. Well, whatever documentation you can present, we will place it in the record at this point.

Mr. SARDELLI. What I can do is go quickly through the questions that you posed, Mr. Chairman, if you so wish. Otherwise, I can pass my turn. I answered your questions——

Chairman GONZALEZ. Fine.

Mr. SARDELLI. As thoroughly as I could.

Chairman GONZALEZ. Since we propounded the questions pretty much the same to all the three witnesses, why don't you allow us to go on ahead and complete recognizing the other witnesses, then we will come back and in the meanwhile, you might have some thoughts that you might want to add to your statement later on.

Mr. SARDELLI. Yes, sure. Thank you.

Chairman GONZALEZ. Comprende?

Mr. SARDELLI. Comprendo.

Chairman GONZALEZ. Ms. Ivey.

STATEMENT OF JEAN IVEY, FORMER LENDING OFFICER, BNL-ATLANTA

Ms. IVEY. Yes, sir, Mr. Chairman.

Do you want me to explain to you my duties at BNL?

Chairman GONZALEZ. Well, you received pretty much the same questions. If you wish to give a preliminary statement, summarizing your knowledge in general and answering those questions which were really directed to your duties as a bank official, if you wish, it would be in order.

Ms. IVEY. I was a business development officer responsible for generating profits through domestic credit lines. I had a territory that included five States, including Georgia. And my customers ranged from Fortune 1000 companies to small business owners.

I wrote proposals, created financial spreadsheets, and established lines of credit to customers and, in addition, I accepted Eurodollar deposits for accounts wherein a relationship was established. Basically, I was a business development officer.

Chairman GONZALEZ. Before you worked for this bank, what was your experience?

Ms. IVEY. I worked for 2 years at Barclay's Bank International.

Chairman GONZALEZ. Were you with Barclay's at the same time that Mr. Drogoul worked for Barclay's?

Ms. IVEY. Yes, sir. Not the exact same years, but he was—he worked there.

Chairman GONZALEZ. I see. All right.

Ms. Maggi. We will recognize you now.

**STATEMENT OF MELA MAGGI, FORMER MONEY MARKET
TRADER, BNL-ATLANTA**

Ms. MAGGI. I do not have any prepared remarks for you. I can briefly tell you what my duties were at BNL.

Chairman GONZALEZ. If you please.

Ms. MAGGI. I was a money market dealer which meant that I was responsible for funding the loan portfolio, managing the mixture of assets to liabilities that they should be well matched.

Chairman GONZALEZ. That's a substantial position.

Mr. Vincenzino.

**STATEMENT OF GIUSEPPE VINCENZINO, FORMER EMPLOYEE,
BNL**

Mr. VINCENZINO. Mr. Chairman, I would be very—I don't have a statement because only yesterday I received the request for a written statement, so I apologize. And I would be—I will tell you in a second what I have been doing for the bank, for my previous employer.

Let me say, however, if you allow me, that I do not work anymore for Banca Nazionale Del Lavoro and I regret it, and I regret it because the years I was working for Banca Nazionale Del Lavoro, I was proud of them. And I am simply saying this because I am not a defender of BNL. But after all I have heard today, from—if you allow me to say, from Mr. Drogoul, and if you allow me to say, from Mr. Sardelli, then I am very confused.

It was a great bank. I had great years with them and great success. At a certain point, something went wrong, maybe controls got loose; God only knows. I can express opinion. I don't have facts. And now we are sitting around this table regretting.

I would still say what I was doing for the bank. I—sorry. I joined the bank after a previous working experience for 10 years at American Consul General in Palermo as a commercial assistant.

Then I moved—I got the position as an information officer with United Nations in New York at the Center for Economic and Social Information and I stayed with them 3 years. Then somehow I fell in love with this country, oh, or my ideas didn't fit really with what I was seeing at the U.N. at that time. So I took a leave of absence and I went full-time to Columbia University and I got an MBA.

Then, I could go back to the U.N., but I was offered a job at BNL as an officer in training, so I left New York because I was starting from Italy and I started going around Italy, in junior officer positions which exposed me—I went to Palermo, Vicenza, Bergargio, Trieste, the Rome headquarters.

First assignment abroad was New York. I was back at home. I do consider—I am Italian. I am proud to be Italian, but this is a great country. My daughter was born here and this is a country that gave freedom to my wife, so you can imagine how much in love with this country I am.

So I am back at home and I am in charge of what they call "secretaria," which is the legal part of the bank, the documentation and this. And my boss at this was Mr. Guadagnini for whom I still have a high opinion. He is a gentleman, if nothing else.

Then I was asked if I wanted to go and open the Atlanta office, which I did. I went in February 1980, and I opened the representa-

tive office there. And it was a beautiful experience. It is a beautiful town. At a certain point, I was asked to study the possibility of transforming it into a branch because there were no Italian branches in the Southeast—no branches of Italian banks in the Southeast in 1980 and the area is a big area with 13 States. So the decision was made. I made the—actually, this was a second start. The decision was made to open a branch. And the branch started being operative around May 1982, more or less.

I was—I can continue, I—what I want to say, I had to put it together. But I will go back to the subject.

The bank was sufficiently in good shape if not profitable immediately, I have the figures. OK. Nine months of 1982 we had a loss of \$91,000, which was simply the cost of starting the operation.

And at the end of 1983, we finished with a loss of \$245,000. Again, you don't reach break-even point the very first day.

In 1984, the first 3 months of 1984, we had a profit of \$86,000. At that point, I am asked to move to Chicago because the situation in Chicago was very bad. The branch was losing a lot of money and I was asked to go and see what I could do.

I went and I was in charge of the Chicago area from March 1984 to December 1985. I had to restructure everything. For the record—nothing to do with you, but for the record, in February 1985, the branch was already profitable. I didn't have time to make photocopies, but I have here a report from the banking commissioner of the State of Illinois which I would be happy to leave with you, and I have also a letter, I have a letter from the Italian Consul General stating that it was a high time, complimenting me for what I had been able to accomplish.

On December 1985, I was asked—so I stayed there less than 2 years, I was asked to go to Spain, and I went as a regional manager for the Spanish operation. And around—actually I was told in August 1987—around September 1, 1987, there was a change in top management of the bank.

I am moved, and I am supposed to come to New York with a brief period in Rome for recycling. I had been away for a long time, and on March 1988, I am back in New York and seeing what was going on. I resigned, reluctantly, July 20, 1989. However, effective February, the date, the ultimate date for my salary was supposed to be and was February 1990 to give me time to find a job. A few days after I resigned, the scandal exploded and that nobody could ever have foreseen.

This is my background. I can go back and I am ready for any question. And if you still allow me, however, I have not had the time to read Mr. Drogoul's written deposition, but I see on page 36 the mention of my name. It's the very last page, maybe there is some more—I have not been able to read it. And here, I see that Mr. Drogoul states, there was a close relationship between Tariq Jamil and Mr. Vincenzino commencing 1982 to 1984.

Mr. Jamil was the head of First American Bankshares of Georgia. At that time, the name was not First American Bankshares. As far as I can remember, the name of the bank was National Bank of Georgia. As far as I remember, too, Mr. Jamil was not the head because he is a foreign national. He is a Pakistani guy.

And the only reason I met him at a party. At certain point he came to live in the same building where we were living, so we were seeing each other for a few times. We saw each other a few times. However, the reason I am mentioning this is for another reason.

A moment ago, I heard the name of Mr. Florio flying around like this. Mr. Florio was the head of the International Department for long, long, long time. Was my first boss. And when—when BCCI Miami, was supposed to be open and somehow we knew that behind National Bank of Georgia there was BCCI, I remember asking him how am I supposed to behave with these people with BCCI—and I am talking about 1983—and the answer came, don't touch them with a pole, which means that—first, the man was a banker and that people in the business knew what they were talking about. I asked for instructions.

I wish to add another thing. In my 15 years with Banca Nazionale del Lavoro, it is funny I became the defender of BNL in this room. I have never been asked by anybody to do something illegal, and I am not aware of anybody doing something illegal. What else can I add? I am here. I am here at your complete disposal and I apologize for the tone of my voice, I sincerely do. But it is a wound, it is a suffered wound and let's hope for the best.

[The prepared statement of Mr. Vincenzino can be found in the appendix.]

Chairman GONZALEZ. Thank you. I can understand. When you referred to being told not to have anything to do with BCCI, were you referring to Mr. Florio?

Mr. VINCENZINO. Yes. I was told by Mr. Florio because as soon as I heard that the new bank was supposed to come into the area, I asked: How do I behave? And the answer was, Don't touch them with a pole; 1984, for the record.

If you wish, I can continue, because I did—the team of Atlanta was put together by me and I am ready to comment on that, but I am at your disposal, I apologize. I cannot give banking lessons, however. I cannot give banking lessons like Mr. Sardelli is giving.

Mr. SARDELLI. It is understandable, yes, I agree, you cannot.

Chairman GONZALEZ. Well, I believe you did say that it was in 1982.

Mr. VINCENZINO. Yes. What? That I—that the branch—that the representative office was transformed into a branch?

Chairman GONZALEZ. Yes.

Mr. VINCENZINO. Yes, sir.

Chairman GONZALEZ. OK. And you were the one that set it up; is that right?

Mr. VINCENZINO. I was asked to transform it into branch, yes, sir.

Chairman GONZALEZ. And you hired the personnel?

Mr. VINCENZINO. Yes, sir. I can elaborate on that.

Chairman GONZALEZ. Well, I think the important thing would be your association with Mr. Drogoul.

Mr. VINCENZINO. Do you want me to comment on it?

Chairman GONZALEZ. Yes, sir.

Mr. VINCENZINO. My association—I don't understand the word in English, the word "association." Let me say how and I apologize for my English at this point. When I was asked to transform into a

branch, there were two possibilities in terms of personnel: Either people who come from Italy or people that you hire locally. And the bank was going through a rapid expansion abroad, maybe that's the price that they have paid, and I had to find the personnel.

At this point, you can go either through headhunters and you pay and you get whatever they suggest to you or otherwise you start asking around. And I started asking around. He was not the first person to come on board. The first person, I don't remember his name, was he came if I remember correct, from—no, he came from a Dutch bank. He came from your bank.

Ms. MAGGI. Ed Travis.

Mr. VINCENZINO. So my—at this point, I was trying to get people with experience in banking and who had been working possibly with a foreign bank in the local environment. And the first guy that I hired was Ed Travis.

I think the second person most likely was Ms. Maggi. And I do remember very vividly and we were the 13th bank opening in Atlanta. We knew—after 2 years, I knew everybody.

And I was having lunch with the director of Barclay's and he was—he was asking me how is it going with personnel, with the premises, whatever. I said that I was still looking and I asked him whether he knew anybody and he indeed mentioned that he was leaving, I don't remember whether his name is Burke, but he was—he was the manager of Barclay's in Atlanta, and he said I do recommend to you Mr. Drogoul because he is capable. I am leaving. He didn't mention anything of the sort that I heard today. And actually said he is very capable.

And I proposed Mr. Drogoul to my boss, the regional manager, as I proposed everybody else. I didn't have hiring authority, per se. He came on board not as number two but as a number three. It was a starting situation and then we brought in Ms. Maggi and then somehow, somebody else—Ms. Ivey. I apologize. I apologize. Somebody else mentioned about Mr. von Wedel was working for First National, if I remember correct—C&S, right. And then he brought somebody else. So it was this kind of team with experience and we put together the branch little by little.

Chairman GONZALEZ. OK. I was going to ask a question of the other witnesses because I think you have addressed it very well.

Mr. VINCENZINO. Thank you, sir.

Chairman GONZALEZ. I believe all of you had a chance this morning to have heard Mr. Drogoul. I believe I saw you in the audience. And you may have had an opportunity to read his written statement.

Would any one of you have any general comments with respect to Mr. Drogoul's statement, and particularly with reference that Mr. Drogoul made to what he calls the gray book or the off-book or balance sheet activities.

Mr. VON WEDEL. Mr. Chairman.

Chairman GONZALEZ. Yes, sir. I would like to hear from you because your name was brought up during the course of his testimony.

Mr. VON WEDEL. I would like to clarify some of the questions that were asked him by some of your colleagues and, unfortunately, they are not here and I would like to answer for them.

Number one is in reference to the Eximbank Program. We were asked did we look at the merchandise types in the analysis when we submitted them to Eximbank for approval. I would like to point out that the \$200 million revolving facility that Eximbank had with the Iraqis was very special, special to the point that everything was done directly between Eximbank and Iraq, the Central Bank of Iraq. The letter of credit was sent to us by the banks in Iraq with a copy to Eximbank, letting Eximbank know what the United States bank was going to handle.

We submitted cursory paperwork but everything was done prior to our bank receiving the letter of credit so, therefore, we wouldn't even look at analysis of merchandise or pay too much attention to what it was.

This was all approved by the U.S. Department of Commerce. There was no need for our bank to get into it. I just wanted to point that out.

One other thing. I just would like to point out that the gentleman at Eximbank that drew up that special agreement with the Iraqis later on went to work for Mr. Aboud at First City Houston.

Chairman GONZALEZ. Mr. Aboud.

Mr. VON WEDEL. The other thing I would like to point out especially, also in fairness to the Federal Reserve Bank; you understand it was this good body about 10 years ago that handled a State's rights motion that the States were given the priority in auditing foreign banks and not the Federal Reserve Bank where the Fed had to rely on the State audit rather than their own.

So in fairness to the Federal Reserve Bank, they could not come in and do a full audit because of protocol.

I am sure if the Federal Reserve Bank and some of the people I know working at it, if they came in, they probably would have found everything within the first day or two of what we were doing, if they audit us by the book.

Chairman GONZALEZ. And, of course, the State regulatory commission wasn't doing that either.

Mr. VON WEDEL. Well, in fairness to the State, they were inexperienced in our business. All the banks in Atlanta that had international departments that did letters of credit, trade finance, were all national chartered banks so they were audited by the Comptroller of the Currency.

The other foreign banks in the—in the Atlanta area, very few of them did any international business whatsoever. They were doing mostly real estate and other types of projects, so we were the only bank, the only actual international trade finance, so they were inexperienced.

Chairman GONZALEZ. Well, it may interest you, all of you to know that even at this moment over 80 percent, much more than 80 percent of the international banking activities is on a State level. It is a very substantial activity, but it is State chartered, regulated, and so forth.

However, there is a difference between an agency setup which is what the BNL was. It wasn't a branch, it was a peculiarity in the definitions in our system and it was labeled as an agency bank. That's the reason I became intensely interested.

Mr. VON WEDEL. Yes, that's only because of the State of Georgia, Mr. Chairman, does not allow the word or the use of "branch office." They don't want the foreign banks to take on deposits. However, there are ways of getting around it which the State of Georgia approved, so where the word "agency" is in our charter, we were really an operating branch.

Chairman GONZALEZ. Could you enlarge on that, how in the State of Georgia you could get around the limitations of an agency definition?

Mr. VON WEDEL. Well, with BNL-Atlanta, we had our London office open up an account with us and all the corporations and large customers that we were doing business with would come and deposit money with our London office which was maintained in our branch which comes out to the same circumstances as the branch itself taking deposits, and that was approved by the State of Georgia banking authorities. So we are taking only deposits, although we were still called an agency.

Chairman GONZALEZ. Well, this is the reason why we are still very much concerned, because I just reported that way over 80 percent of these activities are really on a State level. And so we really have not had the best of any one world because with the agreement, the Federal Reserve technically is supposed to be responsible for the oversight of international banking activities.

But when it comes to a State-chartered activity, then they have these loose arrangements up to the time that we amended the law last year. We amended it to try to plug some of these loopholes in examinations and the like, but that is very interesting and very—

Mr. VON WEDEL. Well, Mr. Chairman, consider foreign agency or foreign branches here licensing them under the Edge Act rather than the State chartered entity. In actuality, that's almost how they operate.

Chairman GONZALEZ. I see. Well, while we have you, were you here when I asked a question of Mr. Drogoul why the four transactions involving those medium-term loans, you signed off on two but didn't on three and four?

Mr. VON WEDEL. That's correct.

Chairman GONZALEZ. I think you would be the proper person to answer that question more than Mr. Drogoul. Though I asked him if he had any idea why you did not—or rather, you withdrew from approving the last two, the number three and four.

Mr. VON WEDEL. To be honest, Mr. Chairman, I was not aware of three and four.

Chairman GONZALEZ. Well, what did Mr. Drogoul refer to when he—

Mr. VON WEDEL. At that time, I was doing for just concentrating more on the Iraqi CCC business and I found out about MTL-III around late February, early March 1989. And I was not aware at all of MTL-IV.

Chairman GONZALEZ. I see.

Mr. VON WEDEL. As a matter of fact, I asked Mr. Drogoul at one point if there were any more MTLs outstanding and I was told no.

Chairman GONZALEZ. Do any of the other witnesses have any knowledge or any comment you want to make with respect to

this—or about another thing? Before I yield to Mr. Leach here, and I guess it would be again more proper to ask Mr. von Wedel because, according to the testimony given to us by Mr. Drogoul, you did accompany him, he made mention about off-book loans to Russia and to Iran.

What do you know about those loans? Were any of these loans to Russia used for the purchase of military goods?

Mr. VON WEDEL. No, Mr. Chairman. The loans, the reason why they went off book at one point was because of technicalities in an audit. We did have approval from Mr. Nagvi in Rome to do the Soviet business. The Soviet Union was purchasing grain from the United States at a very high volume.

To answer another question, that was in your questionnaire about Mr. Kissinger, the only involvement I have is that Mr. Drogoul was coming back from a meeting with him in October 1988 where he said Mr. Kissinger was pushing for us to do more and more of the Soviet grain business. He wanted us to do it.

Now, what we are talking about is United States grains being shipped to the Soviet Union. We probably would have done it in the area of about \$5 billion in calendar year 1989 if it was not for the rate or whatever you might want to call it. We did quite a bit also in 1988 and we were one of the principals in the U.S. financing of U.S. grain and we did have lower rates than most banks, but it upped the competition for U.S. grain to be sold. We had a branch in the Soviet Union that we worked through in collecting the loans.

Chairman GONZALEZ. What about Iran?

Mr. VON WEDEL. Excuse me?

Chairman GONZALEZ. What about Iran?

Mr. VON WEDEL. I was not aware of anything in Iran except in 1984, we did some tobacco for R.J. Reynolds at that point, but it was just a one-shot deal that I am aware of.

Chairman GONZALEZ. OK.

Mr. Leach, I have—

Ms. MAGGI. Excuse me, Mr. Chairman. Before you turn it over to Mr. Leach, I just wanted to make one statement about Mr. Drogoul's remarks on page 2—

Chairman GONZALEZ. OK.

Ms. MAGGI. As far as bringing gray book entries back on to the real book. From what it says here, it sounds like that they just overnight all became real book entries and that is not the case at all. Some entries were placed back on the legitimate or the stated books to the Federal Reserve, but as late as June 1989, there was approximately still 900 million dollars' worth of CCC Iraq on the gray books and that was—it had actually—when those sums were taken off, new business had been put on the gray book.

Chairman GONZALEZ. What do you know concerning the statement that he made that this gray book or off-the-record book practice was common? To your knowledge, is that so?

Ms. MAGGI. No.

Chairman GONZALEZ. Any other comments?

Mr. SARDELLI. Mr. Chairman, I am not so sure that I got the gist of your last question. Are we talking about Atlanta? Are we talking in general?

Chairman GONZALEZ. Well, Atlanta in particular.

Mr. SARDELLI. OK.

Chairman GONZALEZ. Mr. Bachus.

Mr. BACHUS OF ALABAMA. Thank you, Mr. Chairman.

Mr. von Wedel, were you here this morning when I talked to Mr. Drogoul about the money that he received?

Mr. VON WEDEL. Yes, sir, I was.

Mr. BACHUS OF ALABAMA. Did you receive any of that money?

Mr. VON WEDEL. I received a home with the approximate value of \$290,000 from Entrade.

Mr. BACHUS OF ALABAMA. How did you receive that money?

Mr. VON WEDEL. It was a home that was purchased for me.

Mr. BACHUS OF ALABAMA. A loan?

Mr. VON WEDEL. No, a home, H-O-M-E, to live in.

Mr. BACHUS OF ALABAMA. Home. How was that paid for? Did you receive—was that money paid to you or was it paid—

Mr. VON WEDEL. It was paid directly to the realtor.

Mr. BACHUS OF ALABAMA. From—do you know? Was it a check or?

Mr. VON WEDEL. It is supposed to come from Entrade from Yagbus Tezeller.

Mr. BACHUS OF ALABAMA. Did you consider that a loan?

Mr. VON WEDEL. No, I did not.

Mr. BACHUS OF ALABAMA. What was the total amount that Entrade transferred to you and Mr. Drogoul?

Mr. VON WEDEL. I don't know the figures to Mr. Drogoul. I do know to myself it was approximately \$290,000 for the home.

Mr. BACHUS OF ALABAMA. I see. You were aware that was an illegal transaction, were you not?

Mr. VON WEDEL. Illegal? It's morally and unethical—

Mr. BACHUS OF ALABAMA. All right. Unethical. Did you report that as income?

Mr. VON WEDEL. No, I did not, sir.

Mr. BACHUS OF ALABAMA. Was that in 1986?

Mr. VON WEDEL. Yes. It was approximately 1986, but the house was not closed on until 1987.

Mr. BACHUS OF ALABAMA. Did you receive 300-and-something thousand dollars? Is that right?

Mr. VON WEDEL. No, sir.

Mr. BACHUS OF ALABAMA. I'm sorry. How much did you receive, \$200 and?

Mr. VON WEDEL. \$90,000.

Mr. BACHUS OF ALABAMA. \$290,000. Now, the excess differential between the loan—the loan and what was received was about \$1.3 million?

Mr. VON WEDEL. I don't understand, sir. Could you rephrase?

Mr. BACHUS OF ALABAMA. All right. The loan guarantee was for about \$1.3 million more than what was loaned—what was ultimately loaned on the corn trade. Are you aware of that?

Mr. VON WEDEL. You are talking about the bagging operation that Mr. Tezeller owned.

Mr. BACHUS OF ALABAMA. Yes. I guess what I am saying, there is \$1.3 million. You received \$290,000?

Mr. VON WEDEL. Yes, sir.

Chairman GONZALEZ. Mr. Drogoul said he received \$350,000. Is that—that was what we heard this morning.

Mr. VON WEDEL. Approximately, yes. I haven't added it up.

Mr. BACHUS OF ALABAMA. Do you know where the other money went?

Mr. VON WEDEL. No, sir. It was supposed to be Mr. Tezeller. Mr. Tezeller told us he owned a bagging operation in Turkey in Iskenderun and that was his profit from the bagging operation.

Mr. BACHUS OF ALABAMA. So he would have received the—so the money was split three ways?

Mr. VON WEDEL. I don't know exactly how it was split, sir.

Mr. BACHUS OF ALABAMA. You received part of the money?

Mr. VON WEDEL. Yes, sir.

Mr. BACHUS OF ALABAMA. Mr. Drogoul received part of the money?

Mr. VON WEDEL. Yes, sir.

Mr. BACHUS OF ALABAMA. And Mr. Tezeller received part of the money?

Mr. VON WEDEL. It was his money.

Mr. BACHUS OF ALABAMA. It was his money?

Mr. VON WEDEL. Yes, sir.

Mr. BACHUS OF ALABAMA. Did he pay anyone else any of this money?

Mr. VON WEDEL. Not that I am aware of.

Mr. BACHUS OF ALABAMA. Who is Brenda Thomas?

Mr. VON WEDEL. Excuse me?

Mr. BACHUS OF ALABAMA. Who is Brenda Thomas?

Mr. VON WEDEL. Brenda Thomas, or do you mean Brenda Forrest?

Mr. BACHUS OF ALABAMA. Brenda Forrest.

Mr. VON WEDEL. OK. Brenda Forrest worked for me in the trade finance area. She was in charge of the letter of credit section.

Mr. BACHUS OF ALABAMA. Did she receive any of this money?

Mr. VON WEDEL. I am not aware of it.

Mr. BACHUS OF ALABAMA. You are not aware of it?

Mr. VON WEDEL. I am not aware of anyone else receiving funds within the branch.

Mr. BACHUS OF ALABAMA. All right. Have you ever been in on a conversation where it was stated that she received some of this money?

Mr. VON WEDEL. No, sir.

Mr. BACHUS OF ALABAMA. All right. You were concerned that Jean Ivey might share some information with the U.S. Senator about these off-book loans; is that correct?

Mr. VON WEDEL. Let me put it to you this way, sir: If I recall the conversation, I was approached and told that she was dating a U.S. Senator and I said, well, I said, I thought Jean had better taste than that at the time, just as a joke. And then someone said, I wonder if she's talking to him about the transactions, and we just shrugged it off.

Mr. BACHUS OF ALABAMA. What was your concern?

Mr. VON WEDEL. My concern? I had no concern.

Mr. BACHUS OF ALABAMA. Who were you talking to that expressed a concern?

Mr. VON WEDEL. I believe it was Mr. Drogoul that brought it up to me. I mean, I didn't care who Jean was really dating or whatever else. It really didn't make a concern to me and even at that time, all of the transactions we were doing were CCC transactions and myself, I thought everyone was fully aware of what we were doing.

Mr. BACHUS OF ALABAMA. By "everyone else was fully aware," who do you mean?

Mr. VON WEDEL. The public. There were articles printed in magazines that we—to the extent of our total commitment. Even the interest rates were in these articles on what we were doing. I was still aware that top people in Rome knew what we were doing. Just things happening in general, you know, not being audited for a long period of time.

Mr. BACHUS OF ALABAMA. Now, are these the off-the-books loans that we are talking about?

Mr. VON WEDEL. Yes, for CCC, yes, sir.

Mr. BACHUS OF ALABAMA. OK. Now, Federal Reserve would not have been aware of them?

Mr. VON WEDEL. No, sir, they were not aware of them. Other agencies, of course, were aware of the loans. They weren't aware they were off-book or whatever.

Mr. BACHUS OF ALABAMA. Which is what makes them illegal or unethical?

Mr. VON WEDEL. Uh-huh.

Mr. BACHUS OF ALABAMA. What—was Jean Ivey seeking a job in Washington?

Mr. VON WEDEL. I have absolutely no idea.

Mr. BACHUS OF ALABAMA. OK. How about Mr. Vincenzino?

Mr. VON WEDEL. Mr. Vincenzino.

Mr. BACHUS OF ALABAMA. Was he trying to establish—was he trying to get a job with the Pentagon?

Mr. VINCENZINO. No, sir.

Mr. VON WEDEL. Not—the only thing I know of, Mr. Vincenzino was that Lavoro Bank was—and this is rumor within the bank, there is always tons of rumor—was that the bank was considering opening up a representative office in Washington, DC and they were thinking about Mr. Vincenzino to be in that office.

Now, as I say, that's rumor that spreads within the bank. I mean, I have absolutely no other information on that.

Mr. BACHUS OF ALABAMA. All right.

Mr. VON WEDEL. And I believe just to clarify, I believe part of the rumor was that possibly Ms. Ivey would go and work in the office with him. But that was with Lavoro Bank. That was no outside firms.

Mr. BACHUS OF ALABAMA. What was—what would be the purpose of that? What would—

Mr. VON WEDEL. Well, of what I understood is that we were dealing so closely with the government agency programs that we were going to have a representative here in Washington.

Mr. BACHUS OF ALABAMA. Whose idea was it that she seek that employment or that she come to Washington?

Mr. VON WEDEL. Oh, I don't have the slightest idea. This is just rumor that I heard from people in the New York branch, you know

different branches, different people talk. It is just—what I am giving you is not fact. What I am giving you is rumor that I heard within the bank.

Mr. BACHUS OF ALABAMA. You heard Mr. Drogoul talk this morning about this three—third of a million dollars that Mr. Tezeller transferred to his architect as being in the nature of a loan. I'm sure that you and Mr. Drogoul discussed splitting this money; is that right?

Mr. VON WEDEL. Yes, sir, we—

Mr. BACHUS OF ALABAMA. Did you all consider it a loan or did you consider it a payoff or—

Mr. VON WEDEL. I did not consider it a loan. I considered it what Mr. Tezeller told me it was. It was a gift for teaching him the business and setting his company up in New York.

Mr. BACHUS OF ALABAMA. So you considered it more as a gift?

Mr. VON WEDEL. Yes, I did.

Mr. BACHUS OF ALABAMA. Have you ever been asked to pay it back or were you ever told you would have to pay it back?

Mr. VON WEDEL. No, sir.

Mr. BACHUS OF ALABAMA. Did you receive any other gifts on other transactions?

Mr. VON WEDEL. I did some consulting work for Mr. Tezeller and I did receive another payment of \$50,000 for my consulting work.

Mr. BACHUS OF ALABAMA. In connection with these CCC guaranteed loans?

Mr. VON WEDEL. It was doing the documents. We—"we" meaning Lavoro Bank—were no longer handling the program for most of the commodities, and I handled documentation for him on a consulting basis with other banks that he was doing CCC work with.

Mr. BACHUS OF ALABAMA. And you received a \$50,000 gift?

Mr. VON WEDEL. No, it was income, sir. And it was declared on my income as consulting for Entrade.

Mr. BACHUS OF ALABAMA. The \$50,000 was?

Mr. VON WEDEL. Yes.

Mr. BACHUS OF ALABAMA. But not the \$290,000?

Mr. VON WEDEL. No, sir.

Mr. BACHUS OF ALABAMA. What was the difference? Why would you report one and not the other?

Mr. VON WEDEL. I guess you might call it stupidity.

Mr. BACHUS OF ALABAMA. What else was—were there any other reasons other than stupidity?

Mr. VON WEDEL. Just thinking it was a gift, but I should have gone and consulted with a tax attorney and paid the taxes on it.

Mr. BACHUS OF ALABAMA. All right.

Mr. VON WEDEL. The other I knew was definitely earned income and there was no hesitation.

Mr. BACHUS OF ALABAMA. Was any of this money—did Mr. Drogoul get any of this money?

Mr. VON WEDEL. Well, it was a check that was sent to me, sir, so I don't know.

Mr. BACHUS OF ALABAMA. But I am sure you ran on conversation. Did you have any information that he did?

Mr. VON WEDEL. I have no other information on Mr. Drogoul receiving any other funds.

Mr. BACHUS OF ALABAMA. You mean on that particular consulting job?

Mr. VON WEDEL. Yes.

Mr. BACHUS OF ALABAMA. But you do on other arrangements?

Mr. VON WEDEL. No, sir, I don't.

Mr. BACHUS OF ALABAMA. Other than this one——

Mr. VON WEDEL. Just the one incident in 1986 is the only one that I am aware of, or that I can say firsthand information.

Mr. BACHUS OF ALABAMA. Did you hear rumors around the bank that he received others?

Mr. VON WEDEL. No, sir.

Mr. BACHUS OF ALABAMA. That's all.

Chairman GONZALEZ. Well, if the gentleman will yield, the gentleman directed a question to Mr. von Wedel and also Mr. Drogoul involving Ms. Ivey. And I think the best witness is Ms. Ivey.

In fact, when you first raised the question about it, about a U.S. Senator, you know, we have rules about referring to Members of the other body, but for a while I got scared, I thought maybe you had seen an advance copy of Packwood's diary.

Ms. IVEY. I don't know him.

Chairman GONZALEZ. But as you know, Ms. Ivey is a witness here.

Mr. BACHUS OF ALABAMA. Yes, I knew that. But I have read testimony that he was—Mr. von Wedel was concerned over Ms. Ivey and what she may or may not have known or discussed. And I probably—had the red light not turned on, I probably would have asked Ms. Ivey a question.

Chairman GONZALEZ. Well, the gentleman is recognized if he wishes to pursue that. The only reason I bring it up is that the gentleman was asking a question of Mr. von Wedel that would have called, at best, for hearsay and not prima facie or first instance that only the person involved would be able to better answer.

Mr. BACHUS OF ALABAMA. No, I would very much like to ask Ms. Ivey.

Ms. Ivey, did Mr. von Wedel or Mr. Drogoul ask you about your relationship with the Senator from Georgia?

Ms. IVEY. They did not. I didn't discuss it with them at all.

Mr. BACHUS OF ALABAMA. All right. They were aware of your dating arrangement or—is that correct? Is that a correct characterization, that you all were dating?

Ms. IVEY. Yes, we did. We dated.

Mr. BACHUS OF ALABAMA. Was this during the same period of time that these illegal loans were going on?

Ms. IVEY. Yes, sir.

Mr. BACHUS OF ALABAMA. And these were some 5 billion dollars' worth of loans?

Ms. IVEY. I didn't know the amount to be that large until after the raid, but over \$2 billion was my understanding.

Mr. BACHUS OF ALABAMA. Did you ever discuss your job at the bank with the Senator?

Ms. IVEY. Well, my job was calling on domestic companies in the South. I did discuss that. I did not discuss the illegal loans with him.

Mr. BACHUS OF ALABAMA. Were you aware that Mr. Drogoul was concerned that you may be discussing this with the Senator?

Ms. IVEY. I assumed that he was.

Mr. BACHUS OF ALABAMA. Why did you assume that? I mean—

Ms. IVEY. There was an attorney—there was a gentleman by the name of Tito.

Ms. MAGGI. Mazzelli.

Ms. IVEY. Mazzelli, who is a bank attorney in Atlanta, and he approached me and asked me how I knew Senator Fowler and did I date him. And I refused to answer his question. I just told him it was none of his business and I assumed he was asking because he was going back to Mr. Drogoul and telling him my response.

I don't know how Mr. Mazzelli knew that, that's not knowledge that I have. But I did not discuss it in the office because I felt they would be concerned.

Mr. BACHUS OF ALABAMA. You were aware of the gray books—

Ms. IVEY. Yes, sir, I was.

Mr. BACHUS OF ALABAMA. During this period of time?

Ms. IVEY. Yes, sir.

Mr. BACHUS OF ALABAMA. How long did your conversation with the attorney in Atlanta, was this—where were you when he approached you?

Ms. IVEY. I believe I was in the lobby of the building where I work.

Mr. BACHUS OF ALABAMA. And he just walked up to you?

Ms. IVEY. Yes, sir, he did.

Mr. BACHUS OF ALABAMA. Did you know who he was?

Ms. IVEY. Oh, yes, sir.

Mr. BACHUS OF ALABAMA. Did you know—was he an attorney for the bank?

Ms. IVEY. Yes, he was.

Mr. BACHUS OF ALABAMA. And he asked you about your—did he ask you about your relationship with the Senator?

Ms. IVEY. Yes, he did. He asked me if I knew him and if I dated him.

Mr. BACHUS OF ALABAMA. And you said yes to both?

Ms. IVEY. No, I said it was none of his business.

Mr. BACHUS OF ALABAMA. I'm sorry. You did, that is right.

Ms. IVEY. To my knowledge, there was at that time a picture in a restaurant in the area, a picture of myself and the Senator and that might be the reason why he asked the question. But he did not explain to me why he asked the question.

Mr. BACHUS OF ALABAMA. Were you considering transferring here to Washington?

Ms. IVEY. Mr. Vincenzino can answer that question for you. He was approached about opening a branch in Washington and he contacted me on the phone. We had some conversations. He wanted me to consider being a lending officer for this area, calling on companies in Virginia, Maryland, Pennsylvania, and Delaware.

Mr. BACHUS OF ALABAMA. Would you work with the government agencies in this regard?

Ms. IVEY. No, sir. I would be more domestic business, similar to what I was doing in Atlanta.

Mr. BACHUS OF ALABAMA. Let me direct this question to Mr. Vincenzino. Were you aware of a concern on the part of the bank over this dating relationship?

Mr. VINCENZINO. I was not aware. I was not, I think—I left—you were not here a moment ago I think, but I left Atlanta in March 3, 1984. I went to Chicago until the end of December—I'm sorry. I left Atlanta in March 3, 1984 to go to Chicago. I left Chicago to go to Madrid in December 1985. I was not aware of, absolutely. And let me put like this, there are only two times that I put—I think it has been two times, twice, that is correct, I put foot in Atlanta.

Mr. BACHUS OF ALABAMA. Did Mr. Drogoul approach you about being a liaison between the Pentagon and the bank?

Mr. VINCENZINO. When I left—allow me to answer like this: The answer is, no. But let me give you some background about my relationship between myself and Mr. Drogoul.

When I left Atlanta, I had recommended to the bank in writing apparently that a manager come from Italy, an Italian manager, from Italian staff and apparently they were talking and talking and talking and they didn't have people to send, so I strongly suggested at least somebody as a number two in the staff of Atlanta.

Let me go back into the relationship, my relationship with Mr. Drogoul. I went to Chicago to face a situation where the bank had lost lots of money, and I went into a full restructuring of the branch, and so I started that in March 1984 and took some time. It took long a time.

Around—as a matter of fact, soon after I left, I started receiving phone calls from Atlanta complaining about Mr. Drogoul. The first and second or third time, at which point I referred the content of this phone calls to my regional manager at the time and the name is Mr. Guadagnini.

And at a certain point since the persons involved were insisting and complaining about Mr. Drogoul, I had Mr. Guadagnini talk with the persons directly on the phone, and the answer came back to me from Mr. Guadagnini that everybody has their own style of management and I had too big problems in Chicago, forget about the existence of Atlanta, get involved in the problems of Chicago.

And that conversation must have taken place around the end of April, at latest, 1984. From that moment on, I didn't have any relationship whatsoever, neither with Atlanta nor with Mr. Drogoul. Until next year, must have been around April of next year, I had already the staff in place—

Mr. BACHUS OF ALABAMA. In April 1985?

Mr. VINCENZINO. In 1985, sir, yes. I had already the lending staff in place, the branch was restructured. I had gone through the same exercise of hiring people from the local banks with experience. And, in particular, I remember this gentleman who is coming from Continental Bank, think the name is Botticelli—my memory is not such—but he had been at Continental Bank as a lending officer for Continental Grain.

Continental Grain is a company in my area, would have been a company in the Chicago area. So I called Drogoul and I asked him to send the file, because now was time that we were to pick up the relationship. The folder didn't come, the file didn't come, and I in-

sisted, and he had me talk to the deputy treasurer and the woman said that she had a great relationship with Atlanta and she couldn't care less about me or Chicago.

I referred the conversation and the complaint again to my regional manager, and the answer was that I had a big area in Chicago and big problems and to mind my own business. But before calling Mr. Guadagnini, I did call Mr. Drogoul and he was adamant on the subject, and I—

Mr. BACHUS OF ALABAMA. I am sorry, I didn't understand on the subject.

Mr. VINCENZINO. Mr. Drogoul was arrogant toward me about the story of having the file and the relationship for geographical territory coming to me, and at that point I slammed the phone in his face and I did not speak to him until roughly October 1988.

However, since a moment ago, or this morning there was a comment about territory and competence for the branches. I can testify, it looks like I am contradicting myself, but however, I want to say that every branch had its territory as far as I know. And the reasons why management allowed boundaries to be overstepped, and that is practically the first instance that I am aware of, was when a particular guy had developed a particular relationship, at that point that was the justification, that was what Mr. Guadagnini had in his mind, I am sure of it. But we had territorial boundaries, as far as I know.

I am ready for your question. Do you want me to comment about the representative up in Washington? But I thought I interrupted you. You were asking something, sir? Do you want me to comment about that?

Mr. BACHUS OF ALABAMA. Was the conversation about the Pentagon—have you ever been in on a conversation about having a liaison with the Pentagon?

Mr. VINCENZINO. About whom?

Mr. BACHUS OF ALABAMA. About you being a liaison.

Mr. VINCENZINO. The word "liaison" is improper, so if we are talking about liaison, the word is improper.

Mr. BACHUS OF ALABAMA. Just characterize it.

Mr. VINCENZINO. Then I will characterize it. When I came back from Italy, from Rome, and we are talking about March 1988, I had been instructed—and I was coming from an experience already in Atlanta, an experience in New York, an experience in Washington before, because my particular office at the U.N. was in close ties with the World Bank. So the idea was to consider the possibility, and I have it in writing, to consider the possibility of establishing a representative office in Washington, DC, if the business warranted it.

And the business for me, in my opinion, warranted it for several reasons. First, because there are the international agencies which are still operating there, the World Bank, whatever. Then there are Italian companies in the area, and then there are the American companies with subsidiaries in Italy. And finally, there is the work which is related, or which was related at the time with purchases by the Italian Government of military equipment either for the Italian armed forces, either directly from the U.S. Government or from manufacturers of arms in the United States. No matter what,

this is continuing this day. They are simply not sending the letters of credit and the transactions to BNL.

The Chairman—Mr. Chairman, you were saying a moment ago, there is always a bank, yes. If there is a financial transaction, there is always a bank. Payments go through banks. And at that time the bank, Banca Nazionale del Lavoro, was one of the leading banks in Italy, was one of the—it still is government owned, or the majority owned by the government.

So there was a good relationship between my bank at headquarters level and the Ministry of Defense in Italy. But as I say, they are continuing today. Simply they are not sending the remittances through BNL.

At that time, as far as I know, more Italian banks were involved in transactions with the Italian Ministry of Defense in Italy. I think everybody was.

In addition, there are other projects, and I was very involved in another project, and another project is in the question, so if you will allow me, I will continue on this subject. May I? I can stop at any moment.

Mr. BACHUS OF ALABAMA. Well, I—

The CHAIRMAN. I think the question has been answered.

Mr. BACHUS OF ALABAMA. Is the question that you did consider serving as a liaison?

Mr. VINCENZINO. No, sir. I never—

The CHAIRMAN. No, no, the establishment or creation of a branch in Washington—

Mr. VINCENZINO. No branch. Representative office, sir.

The CHAIRMAN. Representative office in Washington.

Mr. BACHUS OF ALABAMA. To represent the bank before the Pentagon?

Mr. VINCENZINO. To represent the bank in the area.

Mr. BACHUS OF ALABAMA. Including relations with the Pentagon?

Mr. VINCENZINO. Including a relationship with the Pentagon, yes.

Mr. BACHUS OF ALABAMA. Let me ask you to go back.

Mr. VINCENZINO. Please.

Mr. BACHUS OF ALABAMA. The question was, did you say Continental Grain?

Mr. VINCENZINO. If I remember correctly, yes, it was Continental Grain. I am not 100 percent sure.

Mr. BACHUS OF ALABAMA. Mr. Vincenzino, are you aware—you heard the testimony of Mr. von Wedel and Mr. Drogoul about these consulting fees or about these profits or loans of some third of a million dollars. Were you—did you have any knowledge of any of these?

Mr. VINCENZINO. No, sir. Absolutely not. Because I have not—I will ask not to get any involvement. From the moment I left Atlanta in March 1984, I have been out of it. I learned first on the newspapers a little bit, and then I am going through the same learning process that you are going through today, sir. No. I was not aware.

Mr. BACHUS OF ALABAMA. Have you heard of any other—

Mr. VINCENZINO. No, sir. Absolutely not. And you were not here when I was saying a moment ago that I regret deeply that this has

happened for a bank for which I—to a bank to which I have dedicated 15 years of my life and which was a great bank.

Mr. BACHUS OF ALABAMA. All right.

The CHAIRMAN. I think we have to move on here, if you don't mind, Mr. Bachus.

Mr. BACHUS OF ALABAMA. Could I ask one question of Ms. Maggi and Ms. Ivey?

The CHAIRMAN. Yes.

Mr. BACHUS OF ALABAMA. You testified earlier that you were aware of this illegal activity in 1985 and 1986; is that correct?

Ms. IVEY. I wasn't aware of it in 1985.

Mr. BACHUS OF ALABAMA. Nineteen hundred and eighty-six?

Ms. IVEY. I believe it—it might have been late 1986, but I was thinking for me it was 1987.

Mr. BACHUS OF ALABAMA. OK.

How about you, Ms. Maggi.

Ms. MAGGI. I recall it in 1986.

Mr. BACHUS OF ALABAMA. When did you all come forward? When did you all first disclose these activities to either banking authorities or to law enforcement authorities?

Ms. MAGGI. Nineteen hundred and eighty-nine.

Mr. BACHUS OF ALABAMA. Nineteen hundred and eighty-nine. Did they come to you?

Ms. MAGGI. No.

Mr. BACHUS OF ALABAMA. Did you all go to them?

Ms. MAGGI. Yes.

Ms. IVEY. Oh, yes.

Mr. BACHUS OF ALABAMA. What was your reason for going at that time or not for going prior?

Ms. MAGGI. The original situation that Mr. Drogoul created with the gray books was supposed to be a very short-term situation; it was not supposed to last for years or months. It was merely to get things by until he could get approvals from Rome. But this didn't come forth as he had said they would.

Mr. BACHUS OF ALABAMA. But the approval did not come forth?

Ms. MAGGI. Not to the amounts that he needed them to, and he continued to do business, so—

Mr. BACHUS OF ALABAMA. Were you ever a witness to Rome being advised of the extent of the loans?

Ms. MAGGI. Not to my knowledge, no.

Ms. IVEY. No.

Mr. BACHUS OF ALABAMA. Did he ever tell you not to say anything? Did he ever give you any caution? Did he ever give you any reward for not saying anything?

Ms. MAGGI. He didn't give me any rewards for not saying anything.

Mr. BACHUS OF ALABAMA. Or any cash payments or anything of that sort?

Ms. MAGGI. No.

Ms. IVEY. The situation in the office was untenable. It was a difficult situation to live through. It was very—a sense of paranoia that you were being monitored or watched. There was a lot of infighting. It was not a comfortable situation for anyone.

Mr. BACHUS OF ALABAMA. What caused you to go to the authorities in 1989? Did you discuss it between yourselves before you went?

Ms. IVEY. I made the decision to go and then I approached Ms. Maggi, because I felt like she had more detailed information, more knowledge, and maybe even photocopies of documents. So I approached her and asked her if she wanted to go with me.

Mr. BACHUS OF ALABAMA. Did any of the documents that you had in your possession indicate that the U.S. Government had any knowledge of what was going on?

Ms. MAGGI. No.

Ms. IVEY. No.

Mr. BACHUS OF ALABAMA. Did any of the documents in your possession indicate that the bank in Rome knew what was going on?

Ms. IVEY. No.

Ms. MAGGI. No.

Mr. BACHUS OF ALABAMA. Were you ever a party to any conversations which indicated to either one of you that people within the U. S. Government knew or approved of these loans?

Ms. IVEY. No, sir.

Ms. MAGGI. No.

Mr. BACHUS OF ALABAMA. And you were—you had the opportunity—or you were there in the office and would—had the opportunity to observe all the correspondence coming in?

Ms. MAGGI. Not all the correspondence, no.

Mr. BACHUS OF ALABAMA. Was there a—but you had—you were able to obtain all of the documents in the office? I mean, did you have free access to all documents?

Ms. MAGGI. If you knew where they were filed.

Mr. BACHUS OF ALABAMA. Were there areas that you were not—that you didn't have access to?

Ms. MAGGI. Not really, but I wouldn't know where necessarily a particular file cabinet was for a particular file set of documents.

Mr. BACHUS OF ALABAMA. Did you know where the gray books were?

Ms. MAGGI. Yes.

Mr. BACHUS OF ALABAMA. Did you ever look at them?

Ms. MAGGI. Yes.

Mr. BACHUS OF ALABAMA. All right.

Ms. MAGGI. But not the supporting documentation, necessarily.

Mr. BACHUS OF ALABAMA. But now that would have been the only evidence that there was something illegal or unethical going on; is that right?

Ms. MAGGI. Yes.

Mr. BACHUS OF ALABAMA. All right.

Were those kept—where were they kept?

Ms. MAGGI. In lots of places. They were moved around. Different file cabinets, different storage rooms.

Mr. BACHUS OF ALABAMA. But you were allowed to participate in moving them around and knowing where they were?

Ms. MAGGI. I usually—if they moved from where they were previously, I may not know what the newest location was.

Mr. BACHUS OF ALABAMA. If there were documents, would those documents have indicated any complicity by the U.S. Government?

Ms. MAGGI. No, because the gray books—when you say the gray books to me, I physically understand it to mean the dollar amount of the loans and the duration of it and the fundings that covered those loans. But as far as the letters-of-credit documents, those were in a totally separate area.

Mr. BACHUS OF ALABAMA. Did you all ever see any payments that Mr. Drogoul received for placing these loans? For instance, were you aware of the payment—were you aware in any way of this \$290,000 that Mr. von Wedel got?

Ms. MAGGI. No.

Ms. IVEY. No.

Mr. BACHUS OF ALABAMA. Absolutely no indication on that?

Ms. MAGGI. No.

Ms. IVEY. No.

Mr. BACHUS OF ALABAMA. Were you ever aware that they may have been double charging their expenses?

Ms. MAGGI. No.

Ms. IVEY. No.

Mr. BACHUS OF ALABAMA. Were you ever aware that they were receiving any money of any kind that was not recorded?

Ms. MAGGI. No.

Mr. BACHUS OF ALABAMA. Ms. Ivey, you—

Ms. IVEY. No, and Mr. Drogoul stated that I was paid for my business travel expenses from the gray books, and I think that is incorrect. It just came out of the operations of the bank.

Mr. BACHUS OF ALABAMA. I don't have any other questions.

The CHAIRMAN. OK. Well, I have one question for Mr. Sardelli. I know that he has been left alone pretty much.

And it has reference to the internal audit of the BNL-Atlanta which was published around the time that you became the regional manager, and it noted that Iraq was the Atlanta branch's principal client, that internal checks were missing, and that the branch was often exceeding its authorized lending limits.

Did you ever follow up on this disturbing information?

Mr. SARDELLI. Mr. Chairman, I am not so sure that I am catching the gist of the statement. That supposedly, there was what?

The CHAIRMAN. The internal audit—

Mr. SARDELLI. Which I directed to Messere to perform.

The CHAIRMAN. Which was published around the time that you became the regional manager.

Mr. SARDELLI. No, sir, there must be some sort of misunderstanding here. Are you talking about 1987?

Mr. VON WEDEL. Mr. Chairman, may I help? I believe that the chairman is talking about the audit that Mr. Messere did in 1988.

Mr. SARDELLI. That is the one that I ordered. That is 1 year later, almost.

The CHAIRMAN. Well, what did that audit indicate?

Mr. SARDELLI. And you are saying that there were Iraqi transactions there?

The CHAIRMAN. No. I said that audit revealed, didn't it, the extent of the transactions with Iraq, among other things?

Mr. SARDELLI. I am afraid that that was not the case. Not only because we are talking about 5 years ago, also because I have never seen these papers again. And let us go into the technicality

of this thing, OK, so that we dispel any doubts that may cross anybody's mind.

I am here in New York and there is this credit proposal that has come from Atlanta. It is in favor of Entrade. It has all the prescribed approvals from my associates. All it is waiting for is my signature. So I leaf through it.

Yes, I published for the benefit of the bank a huge book, guide to lending facilities that was published sometime in 1981 before I left the lending division of the bank to go to Singapore.

The CHAIRMAN. Pardon me for interrupting, because I think you are getting away from the question. Among other things, if you published a manual—you said you published a manual?

Mr. SARDELLI. A guide for lending, yes.

The CHAIRMAN. Didn't that manual set forth lending limitations?

Mr. SARDELLI. No. It organized people's minds.

The CHAIRMAN. OK. Organization. All right.

Mr. SARDELLI. And when I went through, I noticed that the figures didn't match.

The CHAIRMAN. When you went through what, now?

Mr. SARDELLI. Through the papers, the Entrade papers.

The CHAIRMAN. Well, now, are we going back to the audit that you ordered?

Mr. SARDELLI. Yes. That is the only one I know.

The CHAIRMAN. OK. And you did notice irregularities?

Mr. SARDELLI. Sure.

The CHAIRMAN. Did you follow through?

Mr. SARDELLI. Oh, I called Mr. Messere whom I had dispatched to Atlanta, and I ask, by the way, shall we look—excuse me. First of all, I went through the Entrade papers and then I called Atlanta or had someone call Atlanta, and when I noticed that somebody was pulling my leg. I requested whomever I was talking to that they tell Drogoul that I want to talk to him. So he called me.

And I asked him, where is the collateral for this "Entrade" transaction? And the collateral wasn't simply there. So I refused approval on that Entrade business. I directed him to either get sufficient collateral or reduce the loan to the extent of the collateral.

Simultaneously, I asked Messere, by the way, what is the situation like in Atlanta? He answered that it was very bad. What I did was direct him to send me an interim report, because I did not want to wait for the end of the inspection. No, no, you send me now on fax what you found. So he sent me two or three pages.

I went through those pages and I, by the grace of God, I couldn't see any irregularity, simply because there were no figures that would make the situation look bad. So I insisted that he gives me additional details, which came, and at that point I sent Drogoul a scorching letter, but to the best of my recollection and belief, I still doubt that there was anything in that interim report, anything connected with Iraq.

Maybe we are talking about Continental Grain, who was indirectly connected with Iraq. But if you tell me that it is Continental Grain and Continental Grain has a line of credit in the neighborhood of \$100 million, I don't make any connection. It is you, you make the connection. If you are telling me that Continental Grain is over the line to me, it is a risk of Continental Grain. If you are

talking to me about the bank, you know something to that effect, I don't see Iraq.

Anyway, I wrote a scorching letter and I don't know whether the committee has a copy thereof. And I invited him to come to town to hear more on that subject.

At that meeting I also invited the Rome chief inspectors. One L. Costantini that had come to town. I placed a copy of that letter in his hand; we are now about October 3, 1988, if I am not mistaken, I invited Drogoul from October 7, 1988. I knew that Costantini was going back to Rome on the 10th. I placed a copy of that letter in his hand and addressed to Central Auditing Rome. I invited him to the meeting. He heard me talking to Drogoul. Unfortunately, it seems like the copy of the letter meant for Rome was not delivered by Costantini for a number of reasons, excluding the right one.

I was then a joint central manager of the bank, a position covered by the bank's by-laws. As such, I had every right to instruct him to deliver the letter. He claims he didn't. Why? You should ask him.

Not only that, now we come to the full report, the 40-page or so auditing report on the activities of the branch. Now we are in December 1988. There has already been the October 1988 meeting with the managing director of the bank who has practically told me to leave Drogoul alone, OK? Instead, I sent Pedde this paper, the auditing report. I have no answer.

I send him another copy of the report in February 1989, because I am going to be in Rome in March to discuss the budget. When I show up to discuss the budget, tells me that he wants me back to Rome because I don't treat well my "inferiors." That is what he tells me. We are now talking about March 10, 1989. I sent him to where everybody knows and here I am. Besides, March 1989 is the month Pedde reiterated that the correction of the irregularities that surface in any branch or agency as a result of internal auditor inspectors (either from New York Auditing Department or from Central Auditing—Rome) is the domain of not the regional manager but the head of the New York branch administrative division.

The CHAIRMAN. Your letter of October 3, as you said a while ago, 1988, to Mr. Drogoul, now that one was delivered to Mr. Drogoul.

Mr. SARDELLI. Oh, yes.

The CHAIRMAN. And you met with Mr. Drogoul?

Mr. SARDELLI. In the presence of the inspector from Rome, yes.

The CHAIRMAN. Oh, the inspector from Rome.

Mr. SARDELLI. And the inspector from New York, whom I had sent.

The CHAIRMAN. Your letter was very definitely a strong one. You say—

Mr. SARDELLI. I hope it is in good English, too.

The CHAIRMAN. And I am going to quote from your letter. Even though I think we have it in the record, I will again place it in the record at this point.

Mr. SARDELLI. Sure.

[The information referred to can be found in the appendix.]

The CHAIRMAN. You have, reverting to officialdom, I believe that your explanations of the circumstances which prompted the exist-

ence of as many unacceptable exceptions are needed with the utmost urgency.

Mr. SARDELLI. We are still not talking about Iraq.

The CHAIRMAN. No. I know. But you are talking about the letter—

Mr. SARDELLI. Yes, yes.

The CHAIRMAN. To Drogoul pointing out that there were things—irregularities that had to be taken care of.

Mr. SARDELLI. Yes, yes.

The CHAIRMAN. All right. Now, with the letter—with reference to the letter to Rome, which apparently wasn't delivered—

Mr. SARDELLI. Yes.

The CHAIRMAN. Did you ever follow through to find out—

Mr. SARDELLI. Sir, the minute that I show up in Rome, March 10, 1989, the managing director of the bank tells me that I am through with North America. To rephrase the same thing over again, that report was on Mr. Lombardi's desk since March 1989. The translation of that report in Italian surfaced in Rome the day that I was leaving the bank, July 11, 1989. Excuse me, leaving formally.

I had amassed 158 days of unspent vacation. If anybody cares to go to the bank and have a look at the log, it will notice—it will be noticed that I am at the bank at 8 o'clock in the morning, and when I am in New York, I leave the bank at midnight because I like to shake hands with the employees of the night shift in the computer room, since I have a bad temper, you see. So I go there to shake hands with him.

Now, what happens here? When the managing director told me that I was through with the area of North America—as I mentioned it to you, a decision, the wisdom of which I questioned in court—at that point—let me put it this way. The personal report—after all, I am only a joint central manager, is dead. So why should I suffer your abuse? All right?

I tell him his place, which I did, and left that day without shaking hands. The Italian translation of the auditing report will surface in Italian on July 10, the day that I left formally the bank. But the head office had told me to leave the activities of the North American management effective April 15, because they try to make it look like it was now my fault if I had 158 days of unspent vacation days.

Why did it surface July 10, 1989, 7 months later? I am not the person who can provide the answer to that. All I can say is that it was not the first time that a major paper was held for a long period of time. A letter by the chairman dated July 8, 1988 enclosing the directors' strategic decision that were bound to influence the bank's foreign network and particularly the area of North America was kept in somebody's drawer for months and placed in the mail only in December 1988.

Mr. VINCENZINO. Mr. Chairman, may I say something?

The CHAIRMAN. Absolutely. Yes, Mr. Vincenzino.

Mr. VINCENZINO. I have not been paid by my previous employer, for sure, and as a matter of fact, I even took them to court for severance payment that I thought was due to me, and I lost at court, so forget about the issue. But again, let me defend my previous em-

ployer, and let me understand, because maybe this evening I am not understanding too well listening to Mr. Sardelli.

Mr. SARDELLI. Mr. Chairman, excuse the interruption. By comparison Mr. Vincenzino was a very low-ranking officer in the bank, OK? So I don't have to remotely consult with him on what I can do and what I can't do. Besides, unless Pedde told him something he never told me, Mr. Vincenzino's position at BNL-New York branch from March 1988 was subordinate to even the New York branch manager. How he can do the things he says he is doing after March 1988 without my authorization still beats me.

The CHAIRMAN. Excuse me, Mr. Sardelli. Let him complete his statement.

Mr. SARDELLI. Sure.

Mr. VINCENZINO. What I wanted to say, thank you for allowing me, and I apologize, but I have been a branch manager in three instances, and if something had been brought—and I have had inspections from the Federal Reserve, from the auditors and from the outside auditors, I cannot recall one instance where they didn't find something, because the best job on Earth is to be an auditor. You always, you must find something, and you always find little things, you find something.

If something important, something big had ever been brought to my attention, first of all, the auditor doesn't depend from the branch manager. We are talking now of internal auditors. They do not depend from the branch manager. They depend directly, or at least they are to report directly to the head of the auditing department at central office.

And second, if I had been in a situation of something of that importance being brought to me, and if I had seen that top management had not acted, then I would have gone to Bank Italia, to the central authorities, and really even from there I would not have heard anything, I would have gone to the local banking authorities. Forgive my statement.

The CHAIRMAN. The only question I had for the two ladies was, where are you employed now?

Ms. MAGGI. Well, I sell software to corporate clients to allow banking delivery services.

The CHAIRMAN. Where? In Atlanta?

Ms. MAGGI. No, sir. I live in Chicago.

The CHAIRMAN. Oh, in Chicago, OK.

Ms. IVEY. I work for the Cobb County Board of Education.

The CHAIRMAN. I see. Just one final thing. I will have some questions, because you have been most patient, you have been here all day, that I will submit in writing rather than prolong this. But I just wanted to make a comment if I understood correctly Mr. von Wedel.

In answer to Mr. Bachus' inquiry, you said you had accepted a gift, or as is labeled in law, a gratuity, and that this was a gift from an individual who did business with the bank with which you are employed.

Mr. VON WEDEL. Correct.

The CHAIRMAN. Well, I don't believe in being unnecessarily severe or harsh, but I would define that as a bribe. And, in fact, I

think in those cases in law where such accusations have been made, that is about the definition.

I do believe, though, in being just as harsh as truth and as uncompromising as justice, and this is the reason I have made the statements I have made from the beginning this morning and from the beginning of the hearings in which I have deplored a lack of integrity in our judicial system, and in particular, in the Department of Justice.

And I think that for you to say, Mr. von Wedel, that it was a gift, you know, unlike a gift from some disinterested party that I think would be defined as a gift, for you to try to define this as other than a gratuity, as a quid pro quo I think is ingenuous, and I just can't tell you how much I deplore that.

I think we have reached a point in our country—in fact, it isn't the first time in our historical developmental experiences of either our country or society in general, but a democracy such as ours cannot long continue if in the private sector itself we can't muster higher standards than that, and should we then expect from the public sector, which is supposed to be a reflection or a good mirror of our society in general.

Yet, I find that the battering that has been given the public sector has been so severe that the occurrences that we have had to painfully explore in the past 5 years in the private sector leads me to conclude that despite all of the furor about the public level, judging from my association with my colleagues on this level and with the associations I have had in the past in the private sector, that in the main, the overwhelming preponderant majority of the members are members of high quality and moral standard. And that is the hope that maintains some of us and actually the sustenance. I see in some of the new members that we obtained as a result of the elections last year a lot of reason to hope in addition to that.

But I do think that we can't casually refer to such things as you report, Mr. von Wedel, in the hope that it can be interpreted as anything other than—whether it is private or public business—an improper action.

Now, Mr. Drogoul in answer to my question categorically denied that he had ever received any kind of a bribe or kickback. But then admitted in answer to the questions again that Mr. Bachus propounded in more detail that he had received a very extensive loan, but which in answer to further questioning as much as said that he considered it tantamount to a gift, too.

So with that, I will yield to Mr. Bachus for any additional statement or questions he might want to ask in as succinct a manner as possible.

Mr. BACHUS OF ALABAMA. Thank you, Mr. Chairman.

First of all, I would say that this also is not a gift from Mr. Tezeller. It ultimately was a gift from the American people. The money was ultimately, they were the victims, and that these loans were guaranteed by the U.S. Government, which is the people.

Mr. VON WEDEL. Excuse me. That loan was not guaranteed by the U.S. Government; it was a direct loan to Rafidain Bank, and it was paid on the maturity date, the loan with the bank making all the profits and so forth from it. I just would like to point that out.

Mr. BACHUS OF ALABAMA. But the loan was guaranteed.

Mr. VON WEDEL. No, it was not, sir.

Mr. BACHUS OF ALABAMA. Is that correct?

Mr. VON WEDEL. That is correct, sir. And it was paid on its maturity.

Mr. BACHUS OF ALABAMA. Well, I stand corrected.

Let me ask you this—

Mr. VON WEDEL. Let me say it arose out of a transaction where the commodity was guaranteed by the U.S. Government, and that also was paid off on its maturity date. So every 3 years. But it covered—

Mr. BACHUS OF ALABAMA. Did not the U.S. Government buy that commodity?

Mr. VON WEDEL. No. The United States Government sold the commodity, sir, to the Iraqis. What this covered, this particular transaction arose out of it, it was a bagging operation in Turkey where the corn was shipped to Turkey, mixed into a feed grain and bagged in Turkey. It was a Turkish operation, and therefore, it does not qualify under the CCC at all, and we made sure of that. And it was a separate transaction that was not guaranteed by the U.S. Government. And the transaction was paid on its maturity date.

Mr. BACHUS OF ALABAMA. Let me ask you this, Mr. Sardelli. And I am not sure I agree with that characterization. I still think that—

Mr. VON WEDEL. Well, can I maybe clarify it a little better for you, sir.

Mr. BACHUS OF ALABAMA. Let me say this: That was a loan—

Mr. VON WEDEL. I am not justifying what I did or taking the money. I just wanted to set the record straight, because you made a comment, sir, that the U.S. citizens paid the ultimate price on it.

Mr. BACHUS OF ALABAMA. Who paid that loan back?

Mr. VON WEDEL. It was paid back by Rafidain Bank, but it had nothing to do with the CCC guarantee. I mean, it is on the record, sir. You can check all of the records and whatever else is there. It is public information.

Mr. BACHUS OF ALABAMA. Was this not purchase of corn or grain?

Mr. VON WEDEL. Excuse me?

Mr. BACHUS OF ALABAMA. What was this purchase of?

Mr. VON WEDEL. It was the purchase of corn. Let me explain the transaction to you. It was the purchase of corn and other protein meals.

Mr. BACHUS OF ALABAMA. But was that money not intended to go to purchase grain from farmers here in the United States?

Mr. VON WEDEL. No. This money was to pay for the bagging operation, sir, to put the corn in bags. The corn got to its destinations after it was bagged. But it was not under a CCC guarantee. It was not guaranteed by the Commodity Credit Corporation. It was paid back in 18 months, or approximately 24, but it was paid on its maturity, but it was outside the CCC Program. It was not part of the CCC transaction.

I just wanted to set the record straight on that. That is all I am saying. I am not justifying anything that I have done.

Mr. BACHUS OF ALABAMA. All right.

Mr. Sardelli, you heard Mr. Drogoul's testimony today? Were you present when he testified?

Mr. SARDELLI. I was present. I am not so sure whether I was there when you were there.

Mr. BACHUS OF ALABAMA. You heard him say that officials in Rome with the BNL were aware of his activities? You did hear him say that?

Mr. SARDELLI. I beg your pardon?

Mr. BACHUS OF ALABAMA. You did hear him say—his testimony—

Mr. SARDELLI. I heard him in court also testifying. I mean, this is the third time that I see Drogoul.

Mr. BACHUS OF ALABAMA. Do you agree with his testimony or disagree?

Mr. SARDELLI. Look, let me say this: He must have been encouraged to do something.

Mr. BACHUS OF ALABAMA. I am sorry.

Mr. SARDELLI. He must have been encouraged to do something. What, I don't know.

Mr. BACHUS OF ALABAMA. Who would have encouraged him?

Mr. SARDELLI. Well, see, let me word it this way. Whether or not they understood each other, that is Mr. Drogoul and the managing director, they should be asked, the two of them.

Mr. BACHUS OF ALABAMA. The managing director in Rome?

Mr. SARDELLI. I wasn't there when they talked in New York, I wasn't there when they talked in Rome, I wasn't there any time that they talked to each other, because if there was one person that was not there, that was me.

You see, at one point that—what is that? Because you know, this is serious business and it should be treated as such.

You see—

Mr. BACHUS OF ALABAMA. Who is the managing director in Rome that you are referring to?

Mr. SARDELLI. Well, Mr. Drogoul said, and there is no way that I don't believe it, because they have been talking in New York, himself and Pedde. Drogoul says that there was also another man present at his conversation with Pedde in October 1988; a man with no position in the bank, but who was acting as though he was the owner of the bank.

As a matter of fact, I believe that it was him who hired Vecci as the manager of the New York branch to be sure another person who had never covered the position of a branch manager anyplace; as a matter of fact, he was a treasurer in the New York markets, and if there were rumors about this inordinate activity of the Atlanta agency, he should have been the most likely one to know.

Mr. BACHUS OF ALABAMA. Who would we ask?

Mr. SARDELLI. Who?

Mr. BACHUS OF ALABAMA. Who is this person?

Mr. SARDELLI. The man that then was hired to become the branch manager in New York, that is Vecchi. But Mr. Drogoul

claims that it was when he was talking to Mr. Pedde, the then managing director of the bank, that he received directives.

Mr. BACHUS OF ALABAMA. OK. In Rome?

Mr. SARDELLI. No. In New York.

Mr. BACHUS OF ALABAMA. In New York.

Mr. SARDELLI. I wasn't there at the meeting. Whether they understood each other, it has to be really asked to each one of them, not to me. All I can say is this—

Mr. BACHUS OF ALABAMA. Where is he now?

Mr. SARDELLI. Where is the man? He was requested to resign by the owner of the bank, the then Minister of Treasury.

Mr. BACHUS OF ALABAMA. When was this?

Mr. SARDELLI. I believe that together with the chairman, they were requested to step down in September 19—

Mr. VON WEDEL. Nineteen hundred and eighty-nine.

Mr. SARDELLI. Nineteen hundred and eighty-nine, yes.

Mr. BACHUS OF ALABAMA. Do you know where he is today?

Mr. SARDELLI. He wouldn't tell me for sure.

Mr. BACHUS OF ALABAMA. They wouldn't tell you.

Mr. SARDELLI. He wouldn't tell me.

Mr. BACHUS OF ALABAMA. But he would know whether—

Mr. SARDELLI. I don't know whether he is in jail.

Mr. BACHUS OF ALABAMA. In your opinion he would know whether Rome knew?

Mr. SARDELLI. In my opinion—I am not so sure. In my opinion?

Mr. BACHUS OF ALABAMA. Yes.

Mr. SARDELLI. Say that again, please.

Mr. BACHUS OF ALABAMA. In your opinion, he would be the person that would know.

Mr. SARDELLI. There have been a number of other people, like Lombardi, for instance, there is no doubt about that that—

Mr. BACHUS OF ALABAMA. Where is he?

Mr. SARDELLI. Lombardi? I have been 33 years at BNL, and when I joined BNL—

Mr. BACHUS OF ALABAMA. Is he still with the bank?

Mr. SARDELLI. There was almost nobody in the bank.

Mr. BACHUS OF ALABAMA. Is he still with the bank?

Mr. SARDELLI. He is now pumping water on—

Mr. BACHUS OF ALABAMA. I couldn't understand you.

Mr. SARDELLI. He may be pumping water on some other mishap, that he is in South America where there was another mishap for the bank. The gentleman sitting behind me was suggesting that Pedde is in jail, I don't know. What I can tell you is what I know for sure is this, and I tell you.

Mr. BACHUS OF ALABAMA. You mean he may be in jail?

Mr. SARDELLI. He was sentenced to 4 years on the Luchaire affair because they were financing the Iran business, OK?

Mr. BACHUS OF ALABAMA. So he may be in jail?

Mr. SARDELLI. He was not the only one. The person whom I was supposed to replace had I accepted the redeployment to Rome, he received same term. So I am here by the grace of God and perhaps my guardian angel, right?

Mr. BACHUS OF ALABAMA. But as I understand your testimony, people in Rome would have had to have known what was going on in Atlanta?

Mr. SARDELLI. There is no doubt—you see, in November 1988, Mr. Pedde sent to the area—and this is another thing. Mr. Lombardi, to put everybody at ease, because Mr. Sardelli would be removed. This is a fact. I mean—by—I don't know, it is only a fact. And the fact that I am relating to you does not mean that I am being bad, it means only that I am telling the truth.

The CHAIRMAN. That is right.

Mr. Bachus, we have about 4 minutes left to record a vote.

Mr. BACHUS OF ALABAMA. I just wanted to ask unanimous consent to put the Lacey report into the record, Mr. Chairman.

The CHAIRMAN. Without objection, it is so ordered.

[The information referred to can be found in the appendix.]

The CHAIRMAN. Let me say that Mr. Sardelli very well answered, and he had previously, and he simply wasn't privy to those circumstances that Mr. Drogoul related to us as having justified the decisions that he made. So that Mr. Sardelli through our records and everything else has acted with great honor, and we are very grateful to you for your cooperation.

We want to thank again each and every one of you very much. And, Mr. Vincenzino, I share with you your feeling about the things that are going on—that seem to reflect on this great Republic of Italy.

Mr. VINCENZINO. Thank you, sir.

The CHAIRMAN. Because I have always admired and have respected and have drunk deep from the culture. Let me say the writings and the tremendous heritage, and, of course, I think it is just as painful to some of us, as some of the occurrences that we have had to face here in the House of Representatives not too long ago. So we share that feeling, and let me say that our utmost respect for the great people of Italy remains the same.

Mr. BACHUS OF ALABAMA. Mr. Chairman, I would like to say to Ms. Ivey and Ms. Maggi, your cooperation during the last several years is much appreciated.

Ms. IVEY. Thank you.

Mr. BACHUS OF ALABAMA. And we did ask you about your present location, your present employment, but certainly not—we certainly want you to know that we feel that you have been very cooperative and hope that there is no concern there.

The CHAIRMAN. I will add my voice to that and also to thank you for having spoken up when you did in 1989. Thank you again very much.

The committee stands adjourned until further call of the Chair, which will be tomorrow morning at 10 o'clock for a markup.

[Whereupon, at 4:45 p.m., the hearing was adjourned, subject to the call of the Chair.]

APPENDIX

November 9, 1993

**Opening Statement of Henry B. Gonzales, Chairman
Committee on Banking, Finance and Urban Affairs
Hearing with Former Employees of BNL
November 9, 1993**

Today marks the Banking Committee's sixth hearing on the scandal involving the Atlanta agency office of the Italian Banca Nazionale del Lavoro (BNL). The Committee's investigation of BNL originally grew out of my concern that our financial system was vulnerable to abuse by foreign banks who were taking advantage of the openness of our financial system and inadequate supervision on the part of our federal and state bank regulators.

The Committee's investigation revealed that foreign banks were subject to inadequate supervision and an outmoded regulatory structure. These findings served as a catalyst for overhauling our system of regulating foreign banks. Foreign banks are now subject to far greater scrutiny by the regulators, but we must remain on guard. This is especially true given that the foreign bank presence in the U.S. continues to grow. The latest tally reveals that foreign banks command nearly a trillion dollars in assets in the U.S. -- over twenty percent of total banking system assets.

The BNL scandal also serves as a shocking reminder of the ease at which our financial system can be manipulated. While it may seem hard to believe that a handful of employees of a small agency office like BNL could secretly loan billions to Iraq, the scheme was carried out with apparent ease. There are several competing claims about the origins of the scandal and whether or not the BNL Atlanta employees acted alone or as part of a broader covert policy involving the U.S. and Western European tilt toward Iraq.

One group that has not had the opportunity to tell their side of the story is the former employees. Today's hearing provides an opportunity to explore the means and motivations by which the former employees perpetrated the single greatest banking fraud in U.S. history. They will hopefully answer, once and for all, the question of whether or not they acted alone.

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
 STEPHEN L. REAL, NORTH CAROLINA
 JIM A. LOFALCE, NEW YORK
 BRUCE F. VENTO, MINNESOTA
 CHARLES E. SCHUMER, NEW YORK
 BARRY FRANK, MASSACHUSETTS
 PAUL E. CANADONIS, PENNSYLVANIA
 JOSEPH P. KENNEDY, MASSACHUSETTS
 FLOYD H. PLATT, NEW YORK
 STEVE RAPINE, MARYLAND
 MARINE WATERS, CALIFORNIA
 LARRY LINDCO, IOWA
 BILL GRYDER, UTAH
 JIM BACCHIA, FLORIDA
 HERBERT C. ALER, NEW JERSEY
 CAROLYN B. MALONEY, NEW YORK
 PETER BRUTCH, FLORIDA
 LEO V. SATTERFIELD, ILLINOIS
 ROBERT L. RUSH, ILLINOIS
 LUCILLE ROYAL-ALLARD, CALIFORNIA
 THOMAS M. BARNETT, WISCONSIN
 ELIZABETH FURSE, OHIO
 IVONA M. VELAZQUEZ, NEW YORK
 ALBERT R. WYNN, MARYLAND
 CLAY PETER, LOUISIANA
 SILVIO BATTI, NORTH CAROLINA
 MAURICE HENCHY, NEW YORK
 CALVIN M. BOULEY, CALIFORNIA
 NEW BLANK, PENNSYLVANIA
 ONE FIVESEVEN, OHIO

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS

2129 RAYBURN HOUSE OFFICE BUILDING
 WASHINGTON, DC 20515-6050

October 14, 1993

JAMES A. LEACH, IOWA
 BILL MICCOLLIN, FLORIDA
 MARIE DELLEPRA, NEW JERSEY
 DONALD BENTLEY, MISSISSIPPI
 THOMAS BIRCH, PENNSYLVANIA
 TONY GUTTA, WISCONSIN
 ALBERT A. MCCANDLESS, CALIFORNIA
 RICHARD H. BAKER, LOUISIANA
 JIM BUCKLE, OHIO
 CHRIS THOMAS, WYOMING
 GARY JOHNSON, TEXAS
 EDWARD R. ROYCE, OHIO
 JOHN LINDER, GEORGIA
 JOE KILLHAMMER, GEORGIA
 BOB LADD, NEW YORK
 ROD GRAMM, MISSISSIPPI
 SPENCER BACHUS, ALABAMA
 KEVIN HUFFSTON, CALIFORNIA
 MICHAEL CASTLE, DELAWARE
 PETER KING, NEW YORK
 DENNIS BAUDER, VERMONT
 (202) 225-4347

Mr. Christopher P. Drogoul
 c/o Mr. Robert M. Simels, Esq.
 Robert M. Simels, P.C.
 260 Madison Avenue
 New York, NY 10016

Dear Mr. Drogoul:

The Committee on Banking, Finance and Urban Affairs will hold a hearing on the activities of the Atlanta office of the Banca Nazionale del Lavoro on Tuesday, November 9, 1993, at 10:00 a.m., in Room 2128, Rayburn House Office Building. The Committee requests that you testify at the hearing.

The Committee asks that you be prepared to discuss the issues involved in the management, operation and regulation of BNL during your tenure with the bank. Please address the following questions in your written statement:

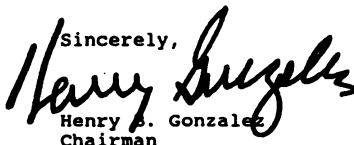
1. What were your duties at BNL?
2. How would you describe the performance and quality of bank examiners assigned to the BNL-Atlanta examinations?
3. To what extent did BNL-New York or BNL-Rome officials know about the Commodity Credit Corporation (CCC) guaranteed or medium term loans (MTLs) to Iraq? Please list the person(s) that had knowledge of the loans, and describe the extent of their knowledge.
4. Do you have any reason to believe that any part of the U.S., Italian, or U.K. governments were aware of the CCC or MTL loans to Iraq prior to the BNL raid on August 4, 1989? Please explain.
5. Do you have reason to believe that the commodities purchased by Iraq with CCC-guaranteed loans were diverted for military goods? Please explain.

6. What is your knowledge of BNL's relationship with Kissinger Associates? Did you have any contact with Kissinger Associates? Did you or anyone else at BNL ever discuss the CCC or MTL loans to Iraq with Kissinger Associates?
7. Please provide any comments you have on the Justice Department's handling of the BNL investigation. Why did you withdraw your original plea agreement with the Justice Department? Do you have any comments on Judge Lacey's BNL Report?
8. Please comment on the Italian government's use of BNL-Atlanta to finance the sale of military hardware such as Sidewinder missiles and attack helicopters?
9. What was your knowledge of BNL's relationship with the Bank of Credit and Commerce International (BCCI)?

In accordance with Committee rules, please deliver 200 copies of your prepared statement to Room 2129, Rayburn House Office Building, Washington, D.C. 20515 by 10:00 a.m., November 8, 1993.

Your entire written statement will be included in the hearing record and will be made available to all Committee members in advance of your appearance.

Thank you for your cooperation. The Committee looks forward to your testimony.

Sincerely,

Henry P. Gonzalez
Chairman

HBG:jx/dk

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
 STEPHEN L. REAL, NORTH CAROLINA
 JOHN J. LAFALCE, NEW YORK
 BRUCE A. VENTIL, MINNESOTA
 CHARLES E. SCHUMER, NEW YORK
 BARNEY FRANK, MASSACHUSETTS
 PAUL E. CANJOSEGO, PENNSYLVANIA
 JEROME P. ROSS, MASSACHUSETTS
 FLOYD H. PLAKE, NEW YORK
 KENNETH R. CLARK, MARYLAND
 MARINE WATERS, CALIFORNIA
 LARRY LINDCO, IDAHO
 BILL BRITEN, UTAH
 JIM BACCUS, FLORIDA
 HERBERT C. KLEIN, NEW JERSEY
 CAROLYN B. MALONEY, NEW YORK
 PETER BOUTCH, FLORIDA
 LEO V. BUTTAREZZI, ILLINOIS
 GERRY L. RUBIN, ILLINOIS
 LUCILLE ROYBAL-ALLARD, CALIFORNIA
 THOMAS H. BARRETT, WISCONSIN
 ELEANOR FURBER, OREGON
 RYANA M. VELAZQUEZ, NEW YORK
 ALBERT R. WYLL, MARYLAND
 CLUD PELING, LOUISIANA
 MELVIN WATY, NORTH CAROLINA
 MARCELO BRICCH, NEW YORK
 CALVIN H. BOOLEY, CALIFORNIA
 BEN KLING, PENNSYLVANIA
 GUY FOWLER, OHIO

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS

2128 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6060

October 19, 1993

JAMES A. LEACH, IOWA
 BILL McCOLLUM, FLORIDA
 MARTIN ROSENTHAL, NEW JERSEY
 DAVID ROSENTHAL, MICHIGAN
 THOMAS RICE, PENNSYLVANIA
 TERRY ROTH, WISCONSIN
 ALFRED A. SACCHINIS, CALIFORNIA
 RICHARD H. BAKER, LOUISIANA
 JIM BUESSLE, OHIO
 CHRIS THOMAS, WYOMING
 SAM JOHNSON, TEXAS
 ROBERTA PRICE, OHIO
 JOHN LINDA, GEORGIA
 JON KOWALSKI, MICHIGAN
 BOB LADD, NEW YORK
 BOB BRADY, MINNESOTA
 SPENCER BACHUS, ALABAMA
 MICKI HUPPSTON, CALIFORNIA
 MICHAEL CASTLE, DELAWARE
 PETER KING, NEW YORK
 BERNARD SANDERS, VERMONT

(202) 225-4347

Mr. Paul Von Wedel
 c/o Mr. John P. Martin, Esq.
 500 Grant Building
 44 Broad Street
 Atlanta, GA 30309

Dear Mr. Von Wedel:

The Committee on Banking, Finance and Urban Affairs will hold a hearing on the activities of the Atlanta office of the Banca Nazionale del Lavoro on Tuesday, November 9, 1993, at 10:00 a.m., in Room 2128, Rayburn House Office Building. The Committee requests that you testify at the hearing.

The Committee asks that you be prepared to discuss the issues involved in the management, operation and regulation of BNL during your tenure with the bank. Please address the following questions in your written statement:

1. What were your duties at BNL?
2. How would you describe the performance and quality of bank examiners assigned to the BNL-Atlanta examinations?
3. To what extent did BNL-New York or BNL-Rome officials know about the Commodity Credit Corporation (CCC) guaranteed or medium term loans (MTLs) to Iraq? Please list the person(s) that had knowledge of the loans, and describe the extent of their knowledge.
4. Do you have any reason to believe that any part of the U.S., Italian, or U.K. governments were aware of the CCC or MTL loans to Iraq prior to the BNL raid on August 4, 1989? Please explain.
5. Do you have reason to believe that the commodities purchased by Iraq with CCC-guaranteed loans were diverted for military goods? Please explain.
6. What is your knowledge of BNL's relationship with

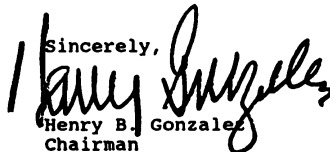
6. What is your knowledge of BNL's relationship with Kissinger Associates? Did you have any contact with Kissinger Associates? Did you or anyone else at BNL ever discuss the CCC or MTL loans to Iraq with Kissinger Associates?
7. Please provide any comments you have on the Justice Department's handling of the BNL investigation. Do you have any comments on Judge Lacey's BNL Report?
8. Please comment on the Italian government's use of BNL-Atlanta to finance the sale of military hardware such as Sidewinder missiles and attack helicopters.
9. What is your knowledge of BNL's relationship with the Bank of Credit and Commerce International (BCCI)?

In accordance with Committee rules, please deliver 200 copies of your prepared statement to Room 2129, Rayburn House Office Building, Washington, D.C. 20515 by 10:00 a.m., November 8, 1993.

Your entire written statement will be included in the hearing record and will be made available to all Committee members in advance of your appearance.

Thank you for your cooperation. The Committee looks forward to your testimony.

Sincerely,



Henry B. Gonzalez
Chairman

HBG:jr/dk

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
 STEPHEN L. NEAL, NORTH CAROLINA
 JOHN A. LAFALCE, NEW YORK
 BRUCE I. VITTO, ILLINOIS
 CHARLES E. SCHANDER, NEW YORK
 BARRY FRANK, MASSACHUSETTS
 PAUL E. KARLOWSKI, PENNSYLVANIA
 JOSEPH P. KENNEDY II, MASSACHUSETTS
 FLOYD H. PLASK, NEW YORK
 EDWARD W. FARMER, MARYLAND
 MARSH WATERS, CALIFORNIA
 LARRY LAROCCA, OHIO
 BILL ORYON, UTAH
 JIM BACHME, FLORIDA
 ROBERT C. KLEIN, NEW JERSEY
 CAROLYN B. MALONEY, NEW YORK
 PETER BRUTICK, FLORIDA
 LEO V. GUTERREZ, ILLINOIS
 ROSEY L. BLUM, ILLINOIS
 LUCILLE ROYAL, ALABAMA, CALIFORNIA
 THOMAS H. BARRETT, WISCONSIN
 ELIZABETH FURSE, OHIO
 WYNN H. VOLAZQUEZ, NEW YORK
 ALBERT B. MYERS, MARYLAND
 CLOS PELAEZ, LOUISIANA
 MELVIN WATY, NORTH CAROLINA
 RAYMOND WISCHNET, NEW YORK
 CALVIN H. BOOLEY, CALIFORNIA
 BOB BLANK, PENNSYLVANIA
 GREG FROSTWORTH, OHIO

U.S. HOUSE OF REPRESENTATIVES COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS
 2128 RAYBURN HOUSE OFFICE BUILDING
 WASHINGTON, DC 20515-9050
 October 19, 1993

JAMES A. LEACH, IOWA
 BILL WOOLLIUM, FLORIDA
 MARSH SCHUMER, NEW JERSEY
 BOB DUNTER, NEBRASKA
 THOMAS RICE, PENNSYLVANIA
 TONY ROTH, WISCONSIN
 ALFRED A. MCCARDLESS, CALIFORNIA
 RICHARD H. BAKER, LOUISIANA
 JIM HUSLE, IOWA
 CHRIS THOMAS, WYOMING
 SAM JOHNSON, TEXAS
 DEBORAH PRYCE, OHIO
 JOHN LINCOLN, GEORGIA
 JOE KROLLBERG, MICHIGAN
 RICE LADD, NEW YORK
 BOB GRAMM, ILLINOIS
 SPENCER BACHUS II, ALABAMA
 MIKE HUPPSTON, CALIFORNIA
 MICHAEL CASTLE, DELAWARE
 PETER KORN, NEW YORK
 DONALD SANDERS, VERMONT
 (202) 225-4347

Mr. Luigi Sardelli
 294 Westchester Avenue
 Crestwood, NY 10707

Dear Mr. Sardelli:

The Committee on Banking, Finance and Urban Affairs will hold a hearing on the activities of the Atlanta office of the Banca Nazionale del Lavoro on Tuesday, November 9, 1993, at 10:00 a.m., in Room 2128, Rayburn House Office Building. The Committee requests that you testify at the hearing.

The Committee asks that you be prepared to discuss the issues involved in the management, operation and regulation of BNL during your tenure with the bank. Please address the following questions in your written statement:

1. What were your duties at BNL?
2. How would you describe the performance and quality of bank examiners assigned to the BNL-Atlanta examinations?
3. To what extent did BNL-New York or BNL-Rome officials know about the Commodity Credit Corporation (CCC) guaranteed or medium term loans (MTLs) to Iraq? Please list the person(s) that had knowledge of the loans, and describe the extent of their knowledge.
4. Do you have any reason to believe that any part of the U.S., Italian, or U.K. governments were aware of the CCC or MTL loans to Iraq prior to the BNL raid on August 4, 1989? Please explain.
5. Do you have reason to believe that the commodities purchased by Iraq with CCC-guaranteed loans were diverted for military goods? Please explain.
6. What is your knowledge of BNL's relationship with Kissinger Associates? Did you have any contact with Kissinger Associates? Did you or anyone else at BNL ever discuss the CCC or MTL loans to Iraq with Kissinger

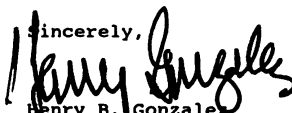
Associates?

7. Please provide any comments you have on the Justice Department's handling of the BNL investigation. Do you have any comments on Judge Lacey's BNL Report?
8. Please comment on the Italian government's use of BNL-Atlanta to finance the sale of military hardware such as Sidewinder missiles and attack helicopters.
9. What is your knowledge of BNL's relationship with the Bank of Credit and Commerce International (BCCI)?

In accordance with Committee rules, please deliver 200 copies of your prepared statement to Room 2129, Rayburn House Office Building, Washington, D.C. 20515 by 10:00 a.m., November 8, 1993.

Your entire written statement will be included in the hearing record and will be made available to all Committee members in advance of your appearance.

Thank you for your cooperation. The Committee looks forward to your testimony.

Sincerely,

 Henry B. Gonzalez
 Chairman

HBG:jr/dk

NEW * GONZALEZ, TEXAS, CHAIRMAN

STEWART L. NEAL, NORTH CAROLINA
JOHN J. LAFALCE, NEW YORK
BLAKE A. VENTRONE, MASSACHUSETTS
CHARLES E. SCHUMER, NEW YORK
BARRY FRANK, MASSACHUSETTS
PAUL E. CARP, PENNSYLVANIA
JOSEPH P. KENNEDY, MASSACHUSETTS
FLOYD H. FLAKE, NEW YORK
DANIEL H. RUPPE, MARYLAND
MAURICE WATERS, CALIFORNIA
LARRY LARSON, OHIO
BILL GUTEN, UTAH
JIM BACON, FLORIDA
HUBERT C. CLON, NEW JERSEY
CAROLYN B. MALONEY, NEW YORK
PETER DEUTSCH, FLORIDA
LUISE V. BUTTERFIELD, ILLINOIS
BOBBY L. RUSH, ILLINOIS
LUCILLE ROYBAL-ALLARD, CALIFORNIA
THOMAS H. BARNETT, WISCONSIN
ELIZABETH FURSE, OREGON
WYDA H. VELAZQUEZ, NEW YORK
ALBERT A. WYNN, MARYLAND
CLAY FELDER, LOUISIANA
HELMUT WATT, NORTH CAROLINA
MAURICE HENNEY, NEW YORK
GALVIN H. BOGLEY, CALIFORNIA
RON KLINE, PENNSYLVANIA
BUC PRINCE, OHIO

U.S. HOUSE OF REPRESENTATIVES

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS

ONE HUNDRED THIRD CONGRESS
2128 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6050

November 4, 1993

JAMES A. LEACH, IOWA
BILL NICOLL, FLORIDA
MARK E. BARNES, NEW JERSEY
BOB WENSTER, INDIANA
THOMAS H. RYAN, PENNSYLVANIA
TOM ROTH, WISCONSIN
ALFRED A. MCCABE, CALIFORNIA
RICHARD H. BAKER, LOUISIANA
JIM HUSLE, IOWA
CHAS. THOMAS, WYOMING
SAM JOHNSON, TEXAS
STROM THOMAS, OHIO
JOHN LINCOLN, GEORGIA
JOE SCHLESINGER, MICHIGAN
BOB LADD, NEW YORK
BOB GRASS, MINNESOTA
SPENCER BACHUS, ALABAMA
KEE HUFFSTON, CALIFORNIA
BRIAN CASTLE, DELAWARE
PETER KING, NEW YORK
BERNARD SANDERS, VERMONT
(202) 225-4347

Mr. Rinaldo Petrignani
Rogers & Wells
607 14th Street, NW
Washington, D.C. 20005

Dear Mr. Petrignani:

The Committee on Banking, Finance and Urban Affairs will hold a hearing on the activities of the Atlanta office of the Banca Nazionale del Lavoro on Tuesday, November 9, 1993, at 10:00 a.m., in Room 2128, Rayburn House Office Building. The Committee requests that you testify at the hearing.

The Committee is interested in the discussions you held with high-level U.S. government officials about the BNL during your tenure as Italy's ambassador to the United States. To assist the Committee, please address the following questions in your written statement:

1. Provide a list of all meetings you attended with U.S. officials where BNL was discussed. Include the reasons for each meeting, a description of what was discussed, and names and affiliations of all meeting participants.
2. Who in the Italian Government directed you to attend these meetings?
3. What was the response of U.S. officials to your suggestions on how to handle the BNL investigation?
4. Do you have any knowledge that the U.S., Italian, or U.K. Governments were aware of BNL's CCC or MTL loans to Iraq prior to the August 4, 1989 raid? Please list the person(s) that were aware of the loans and describe the extent of their knowledge.
5. Do you have reason to believe that the commodities purchased by Iraq with CCC-guaranteed loans were diverted for military goods? Please explain.
6. Please describe what you know about the Italian

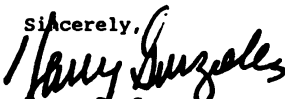
Government's use of BNL-Atlanta to finance the sale of military hardware such as Sidewinder missiles and attack helicopters?

In addition to your written statement, please also provide the Committee with all records to which you have access that refer to the meetings on BNL that you held with U.S. officials.

In accordance with Committee rules, please deliver 200 copies of your prepared statement to Room 2129, Rayburn House Office Building, Washington, D.C. 20515 by 10:00 a.m., November 8, 1993. Your entire written statement will be included in the hearing record and will be made available to all Committee members in advance of your appearance.

Thank you for your cooperation. The Committee looks forward to your testimony.

Sincerely,



Henry B. Gonzalez
Chairman

HBG:jr/dk

HENRY B. GONZALEZ, TEXAS, CHAIRMAN
 STEPHEN L. REAL, NORTH CAROLINA
 JOHN J. LAFALCE, NEW YORK
 BRUCE F. VENTO, MINNESOTA
 CHARLES E. SCHWABER, NEW YORK
 BARNEY FRANK, MASSACHUSETTS
 PAUL L. SARKIS, PENNSYLVANIA
 JOSEPH P. KENNEDY, MASSACHUSETTS
 FLOYD H. PLAKE, NEW YORK
 EDWARD BYRNE, MARYLAND
 MARINE WATERS, CALIFORNIA
 LARRY LAROCHE, IOWA
 BILL CLAYTON, UTAH
 JIM SACCHUS, FLORIDA
 HERBERT C. KLEIN, NEW JERSEY
 CAROLYN B. MALONEY, NEW YORK
 PETER DEUTSCH, FLORIDA
 LUIS V. GUTIERREZ, ILLINOIS
 BOBBY L. RUSH, ILLINOIS
 LUCILLE ROYBAL-ALLARD, CALIFORNIA
 THOMAS M. BARNETT, WISCONSIN
 ELEANOR FURSE, CONNECTICUT
 RYAN M. VILASQUEZ, NEW YORK
 ALBERT R. WYNN, MARYLAND
 CLUD FELDS, LOUISIANA
 MELVIN WATT, NORTH CAROLINA
 MAURICE HINCHY, NEW YORK
 CALVIN M. DOOLY, CALIFORNIA
 RON BLUM, PENNSYLVANIA
 GUY FORTIN, OHIO

U.S. HOUSE OF REPRESENTATIVES
COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS
 ONE HUNDRED THIRD CONGRESS
 2129 RAYBURN HOUSE OFFICE BUILDING
 WASHINGTON, DC 20515-6050

JAMES A. LEACH, IOWA
 BILL MCCOLLUM, FLORIDA
 MARIE KOUCHEVA, NEW JERSEY
 ROUS BRESLER, MICHIGAN
 THOMAS RIDGE, PENNSYLVANIA
 TONY ROTH, WISCONSIN
 ALFRED A. MCCANDLESS, CALIFORNIA
 RICHARD H. BAKER, LOUISIANA
 JIM HUBLE, IOWA
 CRAIG THOMAS, WYOMING
 SAM JOHNSON, TEXAS
 MICHAEL FITZEL, OHIO
 JOHN LINDE, GEORGIA
 JOE SCHLESINGER, MICHIGAN
 RICK LADD, NEW YORK
 ROD BRANKE, MINNESOTA
 SPENCER BACHUS, ALABAMA
 MIKE HUFFWORTH, CALIFORNIA
 MICHAEL CASTLE, DELAWARE
 PETER KING, NEW YORK
 EDWARD BARNES, VERMONT
 (202) 225-4347

November 5, 1993

Dr. Giuseppe Vincenzino
 712 5th Avenue, 32nd Floor
 New York, New York 10019

Dear Dr. Vincenzino:

The Committee on Banking, Finance and Urban Affairs will be holding a hearing on the activities of the Atlanta office of the Banca Nazionale del Lavoro (BNL) on Tuesday, November 9, 1993, at 10:00 a.m., in room 2128 of the Rayburn House Office Building. The Committee requests that you testify at the hearing.

The Committee asks that you be prepared to discuss the issues involved in the management, operation and regulation of the BNL during your tenure with the bank. Please address the following questions in your written statement:

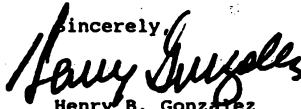
1. What were your duties as an officer of the BNL from your arrival in February of 1975 to your departure in February of 1990?
2. To what degree is the BNL an extension of the Italian government? In accordance, does the Italian Ministry of the Treasury have an active role in the management of the BNL?
3. Were you aware of the illegal use of Commodity Credit Corporation (CCC) guarantees by the BNL-Atlanta? If yes, at what point in time did you become cognizant of the activities?
4. What role did you, as a representative of the BNL, play in the arranging of negotiations between Italian Defense Ministry officials and their NATO counterparts?
5. What role did you play in the arranging of negotiations between Italian Defense Ministry officials and their Iraqi counterparts?

6. Please provide details on any and all trips or meetings in which you accompanied Dr. Antonio Pluchinotta and/or other Ministry of Defense officials.
7. Do you have any reason to believe that any part of the U.S., Italian or U.K. governments were aware of the illicit CCC guarantees to Iraq prior to the BNL-Atlanta raid on August 4, 1989? Please explain.
8. What is your knowledge of the relationship between the BNL and Kissinger Associates? As the BNL-Washington representative, did you have any contact with Kissinger Associates or their designees? If so, please elaborate.

In accordance with Committee rules, please deliver 200 copies of your written statement to room 2129 of the Rayburn House Office Building, Washington, D.C. 20515 by 10:00 a.m., November 8, 1993.

Your entire written statement will be included in the hearing record and will be made available to all Committee members prior to your appearance.

Thank you for your cooperation. The Committee looks forward to your testimony.

Sincerely,

 Henry B. Gonzalez
 Chairman

HBG:tn/dk

CHRISTOPHER DROGOUL

My name is Christopher Drogoul. I want to thank the committee for the opportunity to appear here today. I gave been hopeful for over four years that I might get an opportunity to speak the truth concerning this matter, and although I had intended to do so at my trial, I will do my best to be forthright and complete in this appearance.

I was the manager of the Atlanta agency of Banca Nazionale Del Lavoro from 1984 until August, 1989. Although I managed the bank in accordance with my instructions from my superiors in Rome, when criminal charges were being considered in connection with the activities of that branch, the bank took the position that it was a victim of the actions of the Atlanta agency.

At the time of the search I was in France on vacation. After learning of the search I returned to the United States to deal with the potential problems which might arise. Prior to my return I met with representatives of the Iraqi Central Bank, who assured me that I should not be concerned. It had been their position to me over several years that the lending between the Atlanta agency and their bank was known to the United States, and that any irregularities would be resolved with a fine against the Bank. I was also assured by my knowledge that the General Director and other high officials of BNL knew of my activities that I would not be in harm's way by my return.

After the search of the Bank in August, I became aware that

the investigation by the United States Attorney's Office in Atlanta was focused on my staff and myself. It was always been my view that the political power of the United States and Italy reached right down to the US Attorney's Office in Atlanta to ensure that only those associated with the Atlanta agency suffered the consequences of the revelation surrounding the search of the agency in 1989, while I do not know whether Alan Greenspan's personal visit to Atlanta shortly after the search, or the subsequent direct contact by the Bush White House solely contributed to the bias by the lead prosecutor in Atlanta towards the investigation, it certainly had an impact.

The search revealed that the Atlanta agency had been funding a number of countries, Iran, Russia, and Iraq in part through the use of what some have called the grey book. While some might view that activity as reflecting criminal conduct, it was not. The need to hide from some officials, particularly Mr. Sardelli in New York, our activities led to this record keeping process. With the removal of Mr. Sardelli in the Spring of 1989, we had commenced to remove all grey book entries and to place all our activities on the books. The search prevented this from occurring. I am aware that this process could have prevented the State and Federal Banking authorities from learning the full nature of our lending. However, if any legitimate audit had been conducted the full scope of our lending would have been easily uncovered. It was never

our intention to mislead the United States Banking authorities from knowing the extent of our activities. Instead, I acted to carry out the objectives of BNL and the Italian government, and that I believed were also the objectives of the United States, in my interaction with Iraq, Russia, and Iran.

Having been confined to a prison cell since April 1992 stripped of all my assets, and compelled to have my wife and four children suffer the indignity of having to live on welfare, I have had a great deal of time to consider the events of the period between 1984 and 1991 when I was indicted in a 347 count indictment.

It is my view that the local US Attorney's office was overwhelmed by political pressure by the United States and Italy, by the law firm of King and Spalding, and the lack of a competent staff to properly investigate and understand what had occurred.

To begin to understand the Atlanta agency one must understand who Banca Nazionale Del Lavoro is, their political relationship to the Italian government, and how Italy itself conducts its business affairs. The perennial corruption, and the utilization by its politicians of entities, such as BNL, to further their own pecuniary interests, is self-evident. whether the activities of BNL/Atlanta enriched any Italian political group I do not know but it is certainly likely. I do not intend to engage in a long winded explanation of Italy, but I would be glad to

answer any questions in this regard that the committee may have.

I am certainly disappointed, but not surprised that Mr. Pedde, and the others at BNL who encouraged and endorsed my actions at the Atlanta agency, have taken a position that I acted without authority. I am not so unsophisticated not to realize in this international drama that I am an insignificant figure, who can be sacrificed in the interests of major governments. I was aware at all time that the policy of BNL was to further the foreign policy concerns of both the US and Italy.

As I am sure the committee is aware, following my counsel's subpoenas to former President Bush and other officials of his administration, the government approached us about a plea to end this matter. Recognizing that my trial would be postponed to 1994, and my concern over the fate of my wife and my four children I agreed to a plea which would end this nightmare.

I will now attempt to answer certain questions posed by the Committee in its request for me to appear.

1. WHAT WERE YOUR DUTIES AT BNL?

To answer this question properly requires that one understand the basis upon which I was originally hired, and my banking background at Barclays.

Originally hired in December 1981 as an assistant vice president and junior lending officer, I was promoted to vice president and lending officer sometime in mid 1982, and in mid 1984 was appointed acting manager of the Atlanta branch. In March 1985, my position as manager was formalized by Professor Bignardi.

I have often asked myself why someone with little lending experience and no managerial experience was appointed to the position of manager at BNL Atlanta, but it is clear that I was the only presentable individual available for the job, since the competent Italians shied away from taking the Atlanta stewardship, and there were no Americans in the organization who were available to be appointed at that time. I thus received the position by default.

Officially, the duties of branch manager are administrative; i.e. to ensure the smooth functioning and appropriate development of the branch's activities in its designated nine state business development territory (which included Virginia, North Carolina, South Carolina, Georgia, Alabama, Mississippi, Tennessee, Kentucky and West Virginia).

However, since the branch was constituted with a small capital base of USD 2.000.000, sufficient personnel to properly operate the branch were not hired. Thus employees filled multiple functions: The manager was also a business development officer, a business development officer was also the credit manager, the support trader was

also a business development officer, the letter of credit administrator was also a business development officer, the operations officer acted as the comptroller, etc.

In reality, BNL Atlanta was never truly conceived of or managed as a branch. It was instead considered to be a quasi autonomous business development office.

Moreover, whereas every other branch in the United States operated within its established geographic territory, BNL Atlanta historically operated throughout the United States, and eventually throughout the world. It was common knowledge throughout the BNL system that BNL Atlanta officials travelled in other branches territories, and developed business in those geographic zones for the benefit of BNL Atlanta, that local branch, and the head office.

Thus, when BNL Atlanta travelled to Geneva to develop commodity business with the international grain traders based there, it was common for BNL Atlanta officers to find a way to develop business for the Geneva branch as well. Since most of the Atlanta branch's business involved head office banking relationships with the central banks and the principal commercial banking institutions in Eastern Europe, the Middle East and North Africa, it was common for Atlanta officers to use meetings with those institutions as forums to develop opportunities for the correspondent banking division at the head office.

Ted Monaco's statement to the effect that he was not alarmed at seeing me in Baghdad is in a sense true, for all BNL knew that Atlanta roamed the globe in search of business (in that case though, Monaco also knew that Sardelli had limited our travel to areas inside Atlanta's assigned geographic territory).

To summarize my duties therefore, I would say that officially I was the senior administrator of the Atlanta office, but in reality I was a senior business development officer of the bank based in Atlanta responsible for developing much of the bank's multi-national business.

Indeed, my general manager, Dr. Pedde, repeatedly emphasized to me the need to develop strong ties to European and U.S. multi-national corporations for the bank. Dr. Pedde eventually issued a dictum stating that officers responsible for the development of assigned business should travel to develop such business, rather than head office officials.

2. HOW WOULD I DESCRIBE THE PERFORMANCE AND QUALITY OF THE VARIOUS EXAMINERS ASSIGNED TO AUDIT THE BANK?

It is inaccurate to consider the "visits" by the Federal Reserve Bank, the State Banking Department, and Peat Marwick to be true audits of the branch's records, for they were not. This statement is

not intended to insult any supervisory agency. Simply stated, the established parameters of those entities' audits did not call for a comprehensive audit.

The task of the Fed was simply to confirm that the State of Georgia audit revealed no major problems, and thus their audit of BNL Atlanta usually consisted of a one or two day review of the State of Georgia' preliminary results, followed by a cup of espresso in the manager's office.

The State of Georgia inspectors examined credit folders to determine whether there was an inherent risk in lending to a particular company, financial institution, or country, without any thorough confirmation of the details reported on the branch records. The role of the State examination was not designed to verify the branch's records. That responsibility rested on the shoulders of the bank's internal team of inspectors.

The Peat Marwick examination was nothing more than an exercise to place an independent auditor's imprimatur on the branch's year end results, and their audit consisted of a verification of the assets and liabilities recorded on the branch's books at the close of the financial year, without any examination of the underlying records. By the third or fourth year of such a review, the procedure became so banal that neither KMPG nor BNL Atlanta considered the audit to anything more than an

exercise in protocol.

The audit performed by BNL's internal auditors was comprehensive and thorough. Had it not been "tamed," all the branch's activities would have been revealed, regardless of any attempts on the part of BNL Atlanta's staff to conceal those activities from the internal auditors. The Morgan transfer records were never examined thoroughly, the Rafidain and Central Bank of Iraq's records were never reviewed, the amount of funding received from the interbank market never examined except on a cursory basis, and on and on. I considered the internal auditors omissions to be intentional oversights the first time, and concluded by the second audit that there would not be any wholesale unearthing of Atlanta's Iraqi relationship by BNL's audit team.

Having made this statement, though, I recall many conversations with bankers from New York, who were subjected to numerous state and federal agency audits. They all discussed the thoroughness of the New York audits, so perhaps the Atlanta auditors simply viewed their responsibilities differently.

I do not personally believe that the activities of the Atlanta office could ever have developed in New York. It would almost seem that the environment for BNL Atlanta's was perfect.

3. TO WHAT EXTENT DID BNL NEW YORK AND BNL ROME OFFICIALS KNOW ABOUT THE CCC OR MTL CREDITS FOR IRAQ?

It is important to understand that in most instances approvals to extend credit or to engage in a transaction came in verbal form, either through BNL's regional management in New York, or directly by telephone from BNL Rome.

In a conversation with Dr. Florio during and after a dinner meeting in New York, we were discussing the salubrious impact upon the branch that the CCC program had the previous fiscal year. In particular, we were discussing the prior year's approvals for the extension of credit to Mexico and Iraq, and I had indicated that given the low level of risk associated with these transactions, we at BNL Atlanta wished to continue our CCC lending to those same countries, as well as to others. I had mentioned to Dr. Florio that the CCC had recently accorded significant guarantees to Mexico and Iraq for the U.S. government's new fiscal year, and on this occasion I specifically sought his verbal approbation to lend anew to those countries. His reply, which I remember quite distinctly, was that although he too saw little risk in lending under CCC, the International Division of BNL, and he especially, were under pressure from political forces, at that time unknown to me, which would use any increased lending activities to Mexico as a weapon against the Division, since the New York Branch has in years past lent

substantially to the Mexican public and private economic sectors, both of which were embarrassingly delinquent in paying their loans.

Here I note that BNL Rome officials informed me well afterward that an impending new BNL administration, which sought to abolish Dr. Florio's International Division on the grounds that it was spending too many of the Bank's resources and not generating sufficient profits, was seeking to use any of the International Division's weaknesses to dismiss Dr. Florio. Hence his trepidation to engage in further Mexican lending.

On the subject of Iraq, he evinced no particular objection to further lending commitments toward Iraq under the CCC program, and inquired about my specific intents. I duly noted that BNL Atlanta had not been successful in obtaining full utilization of our facility in favor of Rafidain Bank, and that we needed to offer a considerably larger facility than that of the previous year in order not to be squeezed out by the banks involved the prior year.

At this point Dr. Florio sought assurance that the risk was as it had been represented by the CCC. I assured him that in reality the CCC ensured that on all defaults the borrowing bank would make arrangements to reimburse the lending bank (BNL, in other words) for those amounts not covered by the CCC guarantee, usually by arranging for the borrowing institution to remit the unguaranteed differential at the

time of the CCC's debt rescheduling at the Paris Club.

Having understood the mechanism by which the lending institutions would be "made whole," Dr. Florio then specifically requested from me the amount which I thought would be appropriate for BNL to extend to Iraq. I noted that the anticipated allocation by the CCC to Iraq would be in the area of \$550 million, and that we should be prepared to extend an offer to finance about one-half the total amount, in order to insure utilization of our facility, and in order to have opportunities to develop relations with the U.S. exporters shipping commodities. I also mentioned that we might wish to underwrite the entire facility and share the business with one or two institutions of our choosing, although at the time I had nothing formal in mind.

He ruminated on the matter for about one minute and a half, and as we approached his hotel after leaving the restaurant, he said, "Alright, go ahead with Iraq, but keep away from Mexico for the time being." The entourage accompanying Dr. Florio exchanged courtesies.

His group entered his hotel, BNL regional management staff (Mr. Guadagnini, Mr. Biginelli, et al. parted company with me to return to their homes, and I returned to my hotel.

Such was the manner of our discussions regarding credit facilities of all sorts. Upon my return to Atlanta I notified those parties concerned, most notably Raffaele Galiano and Paul von Wedel. Galiano

was instructed to prepare a formal proposal to Rome, whereas von Wedel was requested to begin marketing our services to the U.S. grain exporters in advance of our meetings with the Iraqi CCC delegation.

The point of this story is twofold: one, to give you an idea about how BNL bankers discussed and obtained verbal authority from superiors regarding all sorts of requests, and two, in order to impart to you the specific conversation in which I obtained authority to proceed in my negotiations with the Iraqis.

As it turned out, Mr. Galiano's requests for formal approval from the area manager in Rome with responsibility for Iraqi institutions met with positive encouragement.

Mr. Galiano's comments regarding the status of our formal request suggested that all was proceeding as planned. The area manager reported conversations he had with Dr. Florio who had by then returned to Rome indicating that all was in order, as Dr. Florio and I had agreed, and therefore, even though we had not yet received 'board certified' approval, everything seemed on track, and we accordingly proceeded to negotiate with the Iraqis, who by then were in Washington, D.C.

After the conclusion of our negotiations with the Iraqis, I recall having spoken to Mr. Guadagnini in New York over the phone to let him know of our success in Washington, and that we planned to sell

unwanted CCC Iraqi loans to several banks seeking to participate.

Approximately one month later, Mr. Galiano approached me in my office and indicated that BNL Rome would be "delaying" the proposal regarding the CCC Iraqi loans, but that I should not be alarmed, it was just "another instance of their slow procedural manner." There was no indication that Dr. Florio was changing his mind. Instead, we proceeded as usual, and, given the successful conclusion of our negotiations, I prepared for my first visit to Baghdad, with Mr. Guadagnini's approval, and with Mr. Biginelli's complete awareness (Biginelli was by then the London branch manager, and I visited with him there just prior to my departure for Baghdad).

It was only upon my return from Iraq that I understood there was a problem with our proposed facility, and it was expressed to me more or less in these words:

"Yes, I know that Dr. Florio told you to proceed, but apparently in the past several weeks he has had temporarily to cease lending activity to Iraq; but I'm sure the situation will be back to normal soon. Continue about your business, even though I have or will be send you a telex declining approval of your facility for the time. We'll work it out soon."

In hindsight, I suppose that I should have called Florio directly and confronted him with the situation. Yet I assumed that the

"delay" would indeed be temporary, since in the past Rome had always delivered, although sometimes well after a verbally authorized credit had been repaid. Additionally, I thought the problem to be linked to the same reason Dr. Florio sought to avoid Mexican risk... to protect his division against political swashbucklers. As a result, I gave the matter only momentary thought.

We continued to honor our commitments, both to the Iraqis and to the exporters, and reflected the loans accordingly on the branch's records.

Then, while at an International Division managers meeting in Venice, Mr. Guadagnini mentioned to me that Dr. Florio had noted to him that BNL Atlanta's exposure to Iraq was in excess of the first year's CCC credit line to Iraq, and it might cause [political] problems for Florio. Accordingly, Mr. Guadagnini asked that I regularize the Iraqi credit line as soon as I returned.

Having had an approval of which Dr. Florio was well aware, I was genuinely perplexed by Florio's and Guadagnini's comments. Thus, upon my return to Atlanta, I called a meeting of the local officers and stated something to the effect that Florio was having difficulties in Rome politically, had found himself boxed into a corner temporarily regarding Iraq, and had asked that we "eliminate" for a time the Iraqi exposure above \$ 100 million, to help him. It was only in 1988 while discussing

the matter of Iraq that Ted Monaco admitted the problem Florio had with BNL's loans to Iraq, only a part of which related to BNL Atlanta. Although BNL Atlanta's Iraqi loans did not constitute a problem for Florio, since ultimately we had elected to remove our branch's Iraqi exposure from the records on the last day of the month, thereby insuring he would have no problems from us, there were sizable amounts of unsecured loans to Rafidain Bank authorized by Florio for BNL's Italian branches which caused him considerable anguish when the new BNL administration sought to find fault with the International Division.

My next meeting with Florio was scheduled to be in New York in October of that same year, and it was my intention to seek clarification on the matter of Atlanta's Iraqi loans. At that meeting, however, Nesi and Florio appeared ashen, Guadagnini had been forced to announce his resignation, and Dr Pedde had taken control of the meetings, where he lamented the ineptitude of the International Division under the guidance of Dr. Florio, who was not even allowed to utter any formal statement to his managers. If I am not mistaken, the ever ebullient Dr. Sardelli was present, having flown in from the far east to be introduced to the North American managers as the new regional manager.

The odor of controlled chaos was in the air, and all parties became skittish and extremely cautious around each other. It was clear

there had been political upheaval at BNL Rome, and no one either in Rome or at the foreign branches understood the new rules by which the bank was to be operated. Florio spoke to no one, Nesi's political base had obviously disappeared. Pedde's position was still somewhat uncertain to us. Only Dr. Sardelli spoke eloquently about his goals for the BNL network in North America. It was truly a somber event, for seemingly overnight the political hierarchy changed and rumors abounded regarding the imminent demise of Florio and his international division.

In this environment, I did not dare burden Florio with another problem, although I did make an effort to discuss the matter with him, and was politely rebuffed with a comment to the effect that the issue of CCC guaranteed loans to Iraq was insignificant in the face of what loomed ahead for the International Division. My dilemma appeared rather insignificant and at the same time, I was genuinely uncertain to whom I was to direct my questions regarding my international lendings. Guadagnini, in one of my conversations with him about the general state of affairs, acknowledged "apres moi, le deluge." Florio was dismissed soon after this meeting, the International Division was erased from the corporate organization chart, and its headquarters palazzo across from BNL's headquarters on Via Veneto put up for sale.

Once Sardelli was installed as the new North American Regional Manager, it was quite unclear to all branch managers whose

political interests Sardelli represented, for he was critical in the extreme about Mr. Guadagnini's prior management team, its lending and administrative practices, and its objectives. In concert with Dr. Pedde, he seemingly delighted in deconstructing Professor Nesi's international network in the U.S., Canada, and Mexico, and deriding the previous efforts of messrs. Florio and Guadagnini who were acknowledged Nesi lieutenants.

Yet at the same time Dr. Sardelli raged about the "fat buffoon" who had no international experience and who appointed political cronies to positions of importance in the BNL network throughout the world, and particularly in New York. He openly criticized the new administration, and after a time it became obvious that he was not one of their men either.

It remained therefore up to each branch manager to seek his own alliances with BNL Rome in order to protect his branch's interests. We in Atlanta solidified our ties directly to those individuals who were not ejected from the bank in the purge of the International Division, and simultaneously worked hard to understand Dr. Pedde's objectives and align our activities with his developing strategic designs.

You will note that the initialization of concealment occurred after Dr. Florio changed his directive to me regarding Iraq, at least three months after he had instructed me to proceed with the branch's CCC

activities there, as his International Division was collapsing about him. The initial process was not designed to withhold information from BNL Rome, for Rome was aware of our true exposure from a variety of sources, not the least of which was the asset report sent to New York, and to Rome, every ten days, and from the daily asset and liability reports for the Atlanta branch which New York examined daily.

Once Mr. Sardelli settled into his position in New York, he regularly poked and probed at our operations, and put pressure on us daily to alter the manner in which the branch has operated for the previous six years. He attempted to have us cease relations with many mid size companies that had been established customers of BNL Atlanta since the branch's inception, and originally promoted by the previous regional management officials, yet he sought for us to lend to new companies of similar size. He attempted initially to curtail our commodity lending activities, and threatened to move them to BNL New York, under the responsibility of Albert Daiboch, an individual who did not share the same rapport with the grain companies as Atlanta's commodity officials. He sought to limit our travel to the southeastern U.S.; when he was plainly aware from existing documentation that we maintained relations with corporations and banking institutions nationwide, in western and central Europe, North Africa and the Middle East.

In our conversations with various officials in Rome about our difficulties with Dr. Sardelli, we were advised and encouraged to strengthen our ties to Rome, "for Sardelli's reign will be short"; and so we oriented ourselves towards Rome, and kept Rome, rather than New York abreast of our activities. Dr. Sardelli was declared 'out of the loop' and it thus became necessary for us to mask our relations from Dr. Sardelli pending Rome's initiatives to replace him, for his volatility only jeopardized the relations we had established with the commodity merchants, the industrial multinationals, the overseas importers, and heir financial institutions. Accordingly, when the regional management auditors came to Atlanta to convert our records onto the Mantec accounting systems, BNL Atlanta had no choice but to conceal our complete activity from the eyes of Mr. Sardelli, much to the delight of BNL Rome, I might add, for now their official responsibility ended. Additionally, we were obliged to do the same when Dr. Sardelli's auditor, Luigi Messere, came to our offices. Documentation which was altered and/or omitted from the branch's records was not intended to officially mislead Rome, but only Sardelli.

Indeed, Rome officials (and in particular Mr. Monaco) were well aware of our activities in Iraq, but also in other countries. They were aware in a detailed manner of most of the transactions in which we were involved, for we obtained guidance from them in one form or another.

Once Sardelli's departure was effected, and Mr. Lombardi assigned to the area managership, an open flow of information to regional management commenced and the branch's activities were being brought into the open. Mr. Lombardi, in concert with BNL Rome officials, were again openly assisting us to bring order to much of the Atlanta branch's records and to obtain the necessary formal approvals from Rome.

As you know, Mr Monaco and his team from Rome were in Baghdad at the same time as Paul vonWedel and I in 1988, and as indicated by Mr. vonWedel and a colleague of Mr. Monaco, a 20 to 30 minute dialogue between Ted Monaco and myself took place separately from vonWedel and Monaco's group. In this private dialogue, Monaco explained to me the purpose of his trip to Baghdad, which as I understood was to expeditiously re-negotiate old BNL - Rafidain debt, with a view to then establishing new facilities in favor of Iraqi government financial institutions.

I explained that vonWedel and I were in Iraq to discuss previous years CCC and related activity, to determine the extent of upcoming CCC allocations, and also to discuss with the Iraqi Central Bank its earlier proposal for BNL to provide selective project finance to U.S. and European multinationals engaged in the reconstruction of Iraq's infrastructure. I detailed in broad terms the level of commitment

expected by Markazi, and indicated that several government loan guarantee institutions (ECGD, Exim, Coface, Sace, and Hermes) were all considering various projects which could potentially be interwoven into our financial arrangements. Monaco expressed exactly the same aspirations and asked that I keep him informed of the results of my meeting in Baghdad, which I did subsequently.

Within the Atlanta branch, all employees were aware of the Iraqi loans.

In Rome, the following departments were aware of the overall activity with Iraq:

A. Correspondent banking division (area finanza) - unit responsible for relations with Middle Eastern and African banking institutions.

Gian Maria Sartoretti
Teodoro Monaco
as well as several of their staff.

Monaco in particular was completely aware of the extent of Atlanta's CCC lending, for over the years beginning in 1985 in telephone conversations he was kept abreast of our annual CCC pilgrimages to Washington. He knew the general amounts which BNL Atlanta agreed to finance, and indeed encouraged me to proceed, for he time and again indicated that Iraqi approvals would eventually be forthcoming.

He was aware of overall extent of our MTL commitments, for he was apprised by me initially in Baghdad of Atlanta's negotiations, told me to develop the post Iran-Iraq war reconstruction business, and indicated that he too was developing his lending activities along the same lines, but that he had several administrative hurdles to surmount in Rome before he could charge ahead.

We had regular discussions regarding Atlanta's CCC activity and, as MTL business developed, conversations regarding those loans also.

By 1989, Monaco was instructing BNL's Italian branches to telephone the Atlanta office directly regarding Iraqi loans. Although Monaco has contended that these referrals were for cash collateralized business only, this is not the case. Cash collateralized business was being handled by BNL London, under Monaco's control.

B. Multinational corporation lending division (area commerciale) unit responsible for the 1000 largest corporations worldwide

Ademaro Lanzara
Carlo Salvatore

These officials monitored relations with BNL Atlanta's multinational clientele and met with these companies senior officers periodically at BNL Rome and also on occasion the these corporation's corporate headquarters.

On several occasions, the most senior executives of Continental Grain and Cargill visited messrs Lanzara and Salvatore and detailed the scope and breadth of their relations with BNL Atlanta. They met with no unusual remarks.

On another occasion, Mr. Lanzara met with officials of Nestle, at the company's headquarters in Vevey, Switzerland. At that time, Lanzara received complete information regarding BNL Atlanta's activities on behalf of Nestle in Iraq. Lanzara called me shortly upon his return to express his thanks to us for having made his job at Nestle that much easier...for we had effectively established a positive reputation for BNL at Nestle. The Nestle loans were neither CCC nor MTL credits.

They were unsecured one year credits to Iraq to facilitate the purchase of powdered milk and baby formula, amounting to an aggregate of more than USD 50 million. Lanzara was fully aware of these credits, and others.

C. credit division (area crediti) unit responsible for granting credits companies based overseas

Dr. Carini
Dr. Frattini

As head of the credit area, it was Dr. Carini's role to host the visits of senior executives from overseas multinational corporations seeking to update the head office about their financial standing. Thus on many occasions, Dr. Carini or his successor, Dr. Lupo met with the same

senior corporate executives who met with Drs. Lanzara and Salvatore. Here too, these executives have confirmed explaining to the area credit officials the nature of their relationship with BNL Atlanta, at times in the same meeting or luncheon attended by are commerciale's officials.

Dr Frattini, a middle level officer specifically responsible for Atlanta's credit portfolio, saw the computer reports relating to the branch's exposure.

This exposure was reflected erratically, causing the head office inspection centre to question Frattini on numerous occasions about Atlanta's activities. Frattini, who visited Atlanta and spent several weeks there, understood that Atlanta was using its credit facilities for purposes and time periods other than those formally approved in Rome.

Nonetheless, he continued to be one of Atlanta's strong supporters.

Similar computer reports evidencing BNL Atlanta's exposure to correspondent banks was reviewed too by the Rome inspection centre, and Monaco was similarly queried about Atlanta's activities. Given his parallel strategy to support Iraq, his team worked with Atlanta officials to quell any suspicion in the inspection centre.

D. office of the managing director

Dr. Pedde
Pietro Lombardi

Formerly the head of area credit, Dr. Pedde was appointed managing director after the initial political purges of 1986 and 1987, shortly after the Socialists under Bettino Craxi lost power in the Italian Parliament.

Aware of Atlanta's shadow activities, through other sources, he provided immeasurable support for BNL Atlanta, in essence acting as the branch's protector. On occasions when I was in Rome on official visits, he would pull me aside for short periods, express his satisfaction with the manner in which the Iraqi business was progressing, and encourage me to continue our Iraqi activities, but with an emphasis on developing multi-national industrial clients in Europe and North America.

Whenever my nemesis Dr Sardeli in New York caused me difficulty in New York, he intervened to protect the branch and its activities.

He discussed particulars with me about Atlanta's Iraqi lending, especially as it related to Italian clients, and asked that I liaise confidentially with him as required through Pietro Lombardi, the man who ultimately replaced Dr. Sardelli in New York.

As financing the Iraqi portfolio became too onerous a task for the Atlanta staff, it was through Pietro Lombardi to Dr. Pedde that I communicated our inability to continue our lending to Iraq in the same manner, stating that Rome would have to fund this activity directly from

Rome or from other units. I expressed the same sentiment to the Mr. Ali in Iraq, and before long both were proposing the removal of operations to a larger venue... the heart of the U.S. industrial belt... Chicago.

After 04 aug 89, upon my immediate return to the US, I met with Pietro Lombardi in New York, who in essence looked at me and said, with the expression of an individual who had been found out, "What are WE going to do?"

In that same meeting, Mr. Carlo Vecchi, the New York branch manager and head of treasury operations for North America, said, "we knew what you were doing in Atlanta all along." I was not aware until then that individuals in New York were also aware of Atlanta's activities.

While Rome officials were informed of my activities and somehow in liason with Baghdad, I felt that Dr. Sardelli and New York branch officials were in the dark. Now I knew otherwise.

E. New York regional management

Carlo Vecchi

Quirino di Mano

Several officials of the comptrollers division

Although Atlanta was careful not to disseminate information to Dr. Sardelli's area about the activities of BNL Atlanta (hence the need for shadow accounting) we were aware that Atlanta's activities in the money markets would come to the attention of New York's treasury

division, and indeed, our movements in the marketplace caused BNL New York's traders to become upset with us. Given the branch's need for substantial amounts of funds, it regularly squeezed New York, with its USD 7 billion portfolio, out of the money markets. Vecchi and his senior trader, Rino di Mano, called us to inquire on numerous occasions why, with only a USD 750 million portfolio, we were purchasing much larger amounts.

4. DO YOU HAVE ANY REASON TO BELIEVE THAT ANY PART OF THE U.S., ITALIAN, OR U.K. GOVERNMENTS WERE AWARE OF THE CCC OR MTL LOANS TO IRAQ PRIOR TO THE BNL RAID ON AUGUST 4, 1989?

I do believe that all three countries, the United States, Italy, and Great Britain were aware of the loans being extended by the Atlanta agency of BNL. First of all I am aware from the accounts offered by Paul Henderson, and the proceedings in Great Britain against him and others, that MI5 and MI6, were being furnished copies of all documents relating to our loans to Matrix Churchill. Moreover, I was informed by messrs Ali and Habobi that there were several individuals in the Matrix Churchill organization with contacts to British intelligence, and that Mr. Habobi's driver was an observer of TDG's activities for the English intelligence community. These facts did not seem to bother them, as I had mentioned in prior testimony. When I noted to Mr. Ali that U. S. intelligence figures appeared in the shadows of BNL Atlanta's customer

portfolio he shrugged, looked at me as if I were some sort of dunce and stated that Iraq and the U.S. worked very closely together. He therefore did not understand my expression of surprise.

Also, in a brief conversation with Mr. Habobi's driver, when I was being taken to a restaurant or to my hotel, the driver stated that he had formerly worked for the British army and, although retired, was still obliquely involved with the British military by virtue of his current position. He spoke to me openly as if I too had some connection to western intelligence, which I thought peculiar. My general view after many such encounters and discussions was that Iraqi, Italian, British and U.S. intelligence services were fully aware and supported BNL Atlanta's activities. In addition, based upon my meetings with several of our German customers involved in the MTL loans, I considered that German intelligence was also keeping updated on BNL Atlanta's affairs, but that there was little intelligence sharing on their part, unlike that taking place between the previously mentioned countries.

As to the United States, I concluded that they must have been aware of our activities. Certainly, our loans to Russia and to Iraq, much of which was conducted by telex and telephone, should have been the subject of interception by U. S. authorities. In addition, the USDA officials, who received copies of all documentation, should have been alerted to the considerable exposure BNL had to Iraq. The Commerce

Department also participated in the yearly negotiations for CCC allocations in Washington, which I attended. I believe that the Commerce Department would have also been made aware as a result of the applications for export licenses required for these exports. Further, the awareness of the United States officials in Iraq of my presence, as well as statement by Wafai Dejani, led me to conclude that United States intelligence agencies and other United States officials were knowledgeable about our lending activities.

It is my belief that many of the companies doing business with Iraq under the MTL loans program had relationships with intelligence services. Among these companies, were Lummus Crest, Bechtel, Hewlett Packard etc. I am also aware that William Muscarella of the XYZ Options was visited by CIA officials in connection with his activities to build a carbide plant in Iraq. Of course, the Committee is already familiar with the names Dale Toler, Chap Chandler and Charles Chidiac, all of whom represented themselves as being connected with U.S. intelligence services, and all of whom sought to do business under the MTL program.

5. **DO YOU HAVE REASON TO BELIEVE THAT THE COMMODITIES PURCHASED BY IRAQ WITH CCC-GUARANTEED LOANS WERE DELIVERED FOR MILITARY GOODS?**

I had no awareness at the time of the events that there may have been diversions. It is certainly not inconceivable that this was occurring. I have subsequently learned that a BNL executive in Italy acknowledged that such activities were taking place.

6. **WHAT IS YOUR KNOWLEDGE OF BNL'S RELATIONSHIP WITH KISSINGER ASSOCIATES? DID YOU HAVE CONTACT WITH KISSINGER ASSOCIATES? DID YOU OR ANYONE ELSE AT BNL EVER DISCUSS THE CCC OR MTL LOANS TO IRAQ WITH KISSINGER ASSOCIATES?**

My initial awareness of Kissinger Associates involvement in these matters began at the time we commenced our relationship with LBS. As time progressed I became aware that Kissinger Associates was a component in many of the loans taking place. For example, Wafai Dejeni had told me that Henry Kissinger was the architect of these loans as they related to U.S. foreign policy. I had attended a speech given by Mr. Kissinger in Venice to the International managers of BNL, and learned of his relationship as a member of the International Advisory Board of BNL. I also learned through conversations with the officials at LBS that Lawrence Eagleburger was associated with Kissinger Associates, which apparently accounted for his ability to accomplish many tasks on their behalf. Moreover, I was aware of the trips taken by Alan Stoga of

Kissinger Associates to see the Iraqis. This latter information was derived from individuals associated with the Iraqi-American Business Forum, who advised me that several officials of Kissinger Associates had travelled to Iraq to develop business relationships for their clients.

7. PLEASE PROVIDE ANY COMMENTS YOU HAVE ON THE JUSTICE DEPARTMENT'S HANDLING OF THE BNL INVESTIGATION. WHY DID YOU WITHDRAW YOUR ORIGINAL PLEA AGREEMENT WITH THE JUSTICE DEPARTMENT? DO YOU HAVE ANY COMMENTS ON JUDGE LACEY'S BNL REPORT?

In 1992 I attempted to cooperate with the US Attorney's Office after pleading guilty. Some have asked why I plead guilty in 1992 if I was indeed not guilty. There is a very simple explanation. I had been Jailed with no hope of bail in April 1992. I had been relegated to a Federal Defender to represent me in a very complicated case since I had no assets, and owed my prior counsel several hundred thousand dollars. My federal defender was not able to understand the case, having said to me after months of representation, "what is a letter of credit?" Feeling that it was likely under those circumstances that I might be convicted and face lengthy incarceration, I agreed at my attorney's request to plead guilty.

I withdrew my original plea because I believed I had been misled by the government. Again, from the outset of this incident, I had been led to believe by the Iraqis and BNL that there would be no criminal

proceedings against me. They had assured me that perhaps regulatory violations against the bank would be brought, but that I would not be in jeopardy of going to jail. When my federal defender persuaded me to enter my original guilty plea, I was under the impression that if I cooperated with the government, that I would receive a letter from them asking the court to downwardly depart from the Sentencing Guidelines. However, the government's attorneys didn't provide such a letter, and instead sought to have me imprisoned for life. It was then that my new counsel, sought to withdraw my plea.

But for the persistence of Mr. Bobby Lee Cook, and the efforts by Judge Marvin Shoob, which led to the discovery of the CIA documents, I would have been sentenced to jail in September, 1992. The disclosure of exculpatory materials, led the government to agree to permit a withdrawal of my plea. It is worth noting that Mr. Simels' efforts led to the further disclosure that there were additional exculpatory materials in the possession of the government, which included the debriefings of Paul Henderson by the government's attorney prior to my indictment.

My efforts at cooperation with the US Attorney's office were frustrated by their continued unwillingness to allow me to tell them the truth. They would pose a question, and when I began to tell them an answer which was inconsistent with their theory of the case, they

would either say we're not interested, or you're lying. My then attorney kept pulling me out of the room and warning me to just say what they want to hear, so you can get them to write a letter seeking a downward departure in my sentence. I finally accepted this premise and limited my responses to say yes, you're right.

It was obvious that the government team investigating the matter was wedded to a particular theory in part because they never looked at the most significant documents which had been at the bank. I learned in the course of the debriefing that King & Spalding had limited their opportunity to review the files at the bank, and had kept the most important documents in their custody. Whenever I attempted to explain matters to them I would request specific documents, which they did not have at their offices. They had to go to King & Spalding to obtain the requested documents. Indeed, it was only after Mr. Simels began to represent me that he was able to compel King & Spalding to provide those documents to me to review. Although those files have been sanitized since 1989, I was able to reconstruct some of the most significant evidence pointing to BNL's awareness of my activities.

I can only state that I was disappointed when I read Judge Lacey's report. No one could appreciate the complexity of this matter in the brief period of review he spent conducting his investigation. Certainly he did not seek or obtain essential documents to an

understanding of this matter. His rejection of the premise that the Department of Justice and other United States agencies had attempted to cover up this matter is extraordinary to me. I believe that all of the BNL employees from Atlanta, who were interviewed by original BNL Task Force would tell you that any time they attempted to implicate BNL they were told that they were not telling the truth, or the subject was changed. Moreover, I believe that the Department of Justice officials that Judge Lacey interviewed had every reason to protect themselves in their statements to him. I further believe that had Judge Lacey pursued the information developed by Chairman Gonzalez and Chairman Rose he could not have reached the conclusions reflected in his report.

8. PLEASE COMMENT ON THE ITALIAN GOVERNMENT'S USE OF BNL-ATLANTA TO FINANCE THE SALE OF MILITARY HARDWARE SUCH AS SIDEWINDER MISSILES AND ATTACK HELICOPTERS?

The use of BNL Atlanta to finance the Sidewinder missiles was not surprising to me. It was one of several transactions routed through BNL Atlanta by the Italian military. While the instructions relating to the merchandise were often cryptic, I was able to understand their significance. Indeed, the initial description on the Sidewinder purchases did not refer to the commodity being purchased. It was only after several communications that I became aware that the purchase involved Sidewinder missiles. I initially believed that those purchases

were being made on behalf of NATO. However, I have learned from the recent Italian Senate proceedings that perhaps this missiles were destined to go elsewhere, and that the Italian Ministry of Defense cannot account for the location of all of the missiles ordered.

The helicopter transaction was proposed to us, but rejected by me when it was determined that this was of military significance. The transaction subsequently was done by our Miami office.

9. WHAT WAS YOUR KNOWLEDGE OF BNL'S RELATIONSHIP WITH THE BANK OF CREDIT AND COMMERCE INTERNATIONAL (BCCI)?

There was a close relationship between Tariq Jamil and Mr. Vincenzino, commencing in 1982-84. Mr. Jamil was the head of First American Bank Shares of Georgia, which I was told by Jamil was a part of BCCI. Jamil subsequently was transferred to BCCI London. We also regularly received funds to support our lending from other BCCI branches. I was not familiar with the reason for this, and would refer you to Mela Maggi, who dealt directly with her counterparts at BCCI.

INSERT AT PAGE 20

In Rome, the following departments were aware of the overall activity with Iraq:

A. Correspondent banking division (area finanza) - unit responsible for relations with Middle Eastern and African banking institutions.

Gian Maria Sartoretti
Teodoro Monaco
as well as several of their staff.

Monaco in particular was completely aware of the extent of Atlanta's CCC lending, for over the years beginning in 1985 in telephone conversations he was kept abreast of our annual CCC pilgrimages to Washington. He knew the general amounts which BNL Atlanta agreed to finance, and indeed encouraged me to proceed, for he time and again indicated that Iraqi approvals would eventually be forthcoming.

He was aware of overall extent of our MTL commitments, for he was apprised by me initially in Baghdad of Atlanta's negotiations, told me to develop the post Iran-Iraq war reconstruction business, and indicated that he too was developing his lending activities along the same lines, but that he had several administrative hurdles to surmount in Rome before he could charge ahead.

We had regular discussions regarding Atlanta's CCC activity and, as MTL business developed, conversations regarding those loans also.

By 1989, Monaco was instructing BNL's Italian branches to telephone

the Atlanta office directly regarding Iraqi loans. Although Monaco has contended that these referrals were for cash collateralized business only, this is not the case. Cash collateralized business was being handled by BNL London, under Monaco's control.

B. Multinational corporation lending division (area commerciale) unit responsible for the 1000 largest corporations worldwide

Ademaro Lanzara
Carlo Salvatore

These officials monitored relations with BNL Atlanta's multinational clientele and met with these companies senior officers periodically at BNL Rome and also on occasion the these corporation's corporate headquarters.

On several occasions, the most senior executives of Continental Grain and Cargill visited messrs Lanzara and Salvatore and detailed the scope and breadth of their relations with BNL Atlanta. They met with no unusual remarks.

On another occasion, Mr. Lanzara met with officials of Nestle, at the company's headquarters in Vevey, Switzerland. At that time, Lanzara received complete information regarding BNL Atlanta's activities on behalf of Nestle in Iraq. Lanzara called me shortly upon his return to express his thanks to us for having made his job at Nestle that much easier...for we had effectively established a positive reputation for BNL at Nestle. The Nestle loans were neither CCC nor MTL credits.

They were unsecured one year credits to Iraq to facilitate the purchase of powdered milk and baby formula, amounting to an aggregate of more than USD 50 million. Lanzara was fully aware of these credits, and others.

C. credit division (area crediti) unit responsible for granting credits companies based overseas

Dr. Pedde.
Pietro Lombardi

Formerly the head of area credit, Dr. Pedde was appointed managing director after the initial political purges of 1986 and 1987, shortly after the Socialists under Bettino Craxi lost power in the Italian Parliament.

Aware of Atlanta's shadow activities, through other sources, he provided immeasurable support for BNL Atlanta, in essence acting as the branch's protector. On occasions when I was in Rome on official visits, he would pull me aside for short periods, express his satisfaction with the manner in which the Iraqi business was progressing, and encourage me to continue our Iraqi activities, but with an emphasis on developing multi-national industrial clients in Europe and North America.

Whenever my nemesis, Dr. Sardelli, caused me difficulty in New York, he intervened to protect the branch and its activities.

He discussed particulars with me about Atlanta's Iraqi lending, especially as it related to Italian clients, and asked that I liaise confidentially with him as required through Pietro Lombardi, the man who ultimately replaced Dr. Sardelli in New York.

As financing the Iraqi portfolio became too onerous a task for the Atlanta staff, it was through Pietro Lombardi to Dr. Pedde that I communicated our inability to continue our lending to Iraq in the same manner, stating that Rome would have to fund this activity directly from Rome or from other units. I expressed the same sentiment to the Mr. Ali in Iraq, and before long both were proposing the removal of operations to a larger venue... the heart of the U.S. industrial belt... Chicago.

After 04 aug 89, upon my immediate return to the US, I met with Pietro Lombardi in New York, who in essence looked at me and said, with the expression of

an individual who had been found out, "What are WE going to do?"

In that same meeting, Mr. Carlo Vecchi, the New York branch manager and head of treasury operations for North America, said, "we knew what you were doing in Atlanta all along." I was not aware until then that individuals in New York were also aware of Atlanta's activities.

While Rome officials were informed of my activities and somehow in liason with Baghdad, I felt that Dr. Sardelli and New York branch officials were in the dark. Now I knew otherwise.

E. New York regional management

Carlo Vecchi

Quirino di Mano

Several officials of the comptrollers division

Although Atlanta was careful not to disseminate information to Dr. Sardelli's area about the activities of BNL Atlanta (hence the need for shadow accounting) we were aware that Atlanta's activities in the money markets would come to the attention of New York's treasury division, and indeed, our movements in the marketplace caused BNL New York's traders to become upset with us. Given the branch's need for substantial amounts of funds, it regularly squeezed New York, with its USD 7 billion portfolio, out of the money markets. Vecchi and his senior trader, Rino di Mano, called us to inquire on numerous occasions why, with only a USD 750 million portfolio, we were purchasing much larger amounts.

INSERT AT PAGE 21

Al Haddad
Telwar
Foodline
Voest Alpine

INSERT AT PAGE 24

My attorney, Robert M. Simels, was in contact with Mr. Perot. Mr. Perot expressed to Mr. Simels that he thought that my pre-trial detention was "un-American". Mr. Perot advised Mr. Simels that if bail would be set in the case he was prepared to aid in my release. However, although bail was set by the court following these discussions, Mr. Perot offered no assistance.

RINALDO PETRIGNANT

January 31, 1994

The Honorable Henry B. Gonzales
U.S. House of Representatives
Committee on Banking, Finance and Urban Affairs
One Hundred Third Congress
2129 Rayburn House Office Building
Washington, D.C. 20515-6050

Dear Mr. Chairman,

In the interest of cooperation with the Committee on Banking, Finance and Urban Affairs and as I have already testified at a public hearing held by the Italian Senatorial Investigation Committee on this issue to the same effect, let me answer questions in your letter:

The list of the meetings I attended is as follows:

March 21, 1990

I met with Mr. Robert Ross, Assistant to the Attorney General on March 21, 1990. Mr. Edward Dennis, Chief of the Criminal Division, and his assistant, Mr. Mark Richard were also present at the meeting.

During this meeting I expressed the concerns of the Italian Government regarding the possible indictment of BNL as an institution (owned by the Italian Treasury). I said that we all had great respect for the American judicial system and that we had no intention whatsoever of interfering with the ongoing investigations. What did concern us was that the Bank, because of a fraud perpetrated by disloyal employees, had undergone huge losses and that an indictment by the United States of the Bank rather than the perpetrators of the fraud,

without an opportunity to be heard, would be difficult for us to understand and would be adding insult to injury.

Mr. Ross asked why I expressed concerns regarding the Bank's indictment at this particular point in time, especially in light of the fact that no one had even mentioned this possibility. I responded that it seemed quite possible that Drogoul and his associates, in order to lessen their role in the situation, would attempt to place a portion of the responsibility on BNL.

Mr. Ross observed that it would be normal that Drogoul would attempt to defend himself through assigning blame to BNL. He concluded however by saying that we could be sure that the American judicial system would continue to treat the case with the maximum objectivity and impartiality.

March 27, 1990

I met with Abraham Sofaer, Legal Advisor to the State Department. The Head of the Italy Desk at the State Department also attended the meeting.

In my meeting with Judge Sofaer, I expressed the same concerns regarding BNL's indictment as I had in my meeting with Mr. Ross, underlining BNL's role as a victim of the fraud committed by Mr. Drogoul and his assistants.

Mr. Sofaer, as Mr. Ross, asked me about the reason of my concerns, and I responded as I had to Mr. Ross, that we were concerned that Drogoul's lawyers would put the blame on BNL so as to lessen or escape personal responsibility in the case.

Sofaer answered by saying that he had taken note of my concerns and suggested that we might wish to have the lawyers of the Bank contact the Justice Department and that he would

bring our concerns to the attention of the appropriate individuals.

March 27, 1990

Conversation with Attorney General (Dick) Richard Thornburgh.

During the course of a reception at the White House commemorating Eisenhower's birth, and at which approximately 150 people were present, I had the opportunity to meet briefly and casually with Attorney General Thornburgh. On the occasion, I told Attorney General Thornburgh of the steps that I had taken with his colleague, Mr. Ross, concerning BNL. My conversation with Mr. Thornburgh only lasted a minute or two. Thornburgh, without mentioning any specifics of the investigation, responded by saying that the question would be examined objectively and fairly.

September 21, 1990, 1:00 PM

I was accompanying a delegation from the Italian Senatorial Commission of Investigation, composed of Senator Carta, President of the Commission, Prof. Zanelli and Dr. Di Raimo. In that occasion, we met with Mr. Urgenson, Head of the Fraud Division of the Department of Justice, as well as with other officials from the Department of Justice. Ms. McKenzie was also present at the meeting. The conversation was general in nature and concerned the procedural aspects of the case. Senator Carta informed the American official of the constitution of the investigation committee of the Italian Senate, which he chaired, and said that he would come back with the entire commission late in 1990.

Who in the Italian Government directed you to attend these meetings?

The director general for economic affairs at the Ministry of Foreign Affairs and the director of cabinet at the same Ministry.

What was the response of U.S. officials to your suggestions on how to handle the BNL investigation?

I made no suggestion on how the United States should handle the investigation except as stated in response to question 1.

Do you have any knowledge that the U.S., Italian, or U.K.. Governments were aware of BNL's CCC or MTL loans to Iraq prior to the August 4, 1989 raid? Please list the person(s) that were aware of the loans and describe the extent of their knowledge.

I have no knowledge in this regard.

Do you have reason to believe that the commodities purchased by Iraq with CCC-guaranteed loans were diverted for military goods? Please explain.

I do not have any reason to believe this.

Please describe what you know about the Italian Government's use of BNL-Atlanta to finance the sale of military hardware such as Sidewinder missiles and attack helicopters?

I have no knowledge on this subject.

With my best regards

Yours Sincerely

Rinaldo Petriagnani

Luigi Sardelli's Written Responses to Chairman Gonzalez's Questions

2. How would you describe the performance and quality of bank examiners assigned to the BNL-Atlanta examinations?

If the reference is to BNL internal auditors (both domestic and foreign) I would define performance and quality as dismal or wanting or worse.

As an immediate follow up to the Messere preliminary findings of September 1988 (which I had instructed him to send me by fax without waiting until the end of the inspection) I had directed one Lucio Constanti, BNL Rome chief inspector who was inspecting New York to go to Atlanta to audit the agency. His answer was that Mr. Pedde, the then Managing Director had instructed him to audit my expense account instead. Of course no improprieties (big, small or otherwise) could be found in my expenses.

Constantini is the same person who claims that, ignoring my instructions, he omitted to deliver to Central Auditing Dept.-Rome the copy of my letter 10/3/88 addressed to Drogoul which was specifically earmarked for Central Auditing.

Since my authority came from the Bank's Bylaws, Constantini's lack of delivery amounted to gross negligence if not outright insubordination, unless, of course, he was instructed by the usual higher up to conveniently keep it in his pocket.

On the other hand it certainly took the Fed a long time before they subjected to a real audit BNL North America.

It was on January 14, 1993 that the Fed of N.Y. expressed the wish to interview me "in connection with the...ongoing investigation into the activities of BNL's Atlanta Office". I immediately obliged, of course, although in all frankness I could not figure out why they had waited that long.

I do not even know whether the NY State Banking Dept. of those days understood my problem, among numerous others represented by hundreds of accounts, which according to internal auditor reports had not been reconciled for years in the N.Y. Branch, not to mention close to \$1 billion loans to Latin American countries meanwhile become "non-performing" and staff (including officers) improprieties.

3. To what extent did BNL-New York or BNL-Rome officials know about the Commodity Credit Corporation (CCC) guaranteed or medium term loans (MTL's) to Iraq? Please list the person(s) that had knowledge of the loans, and describe the extent of their knowledge.

I was generically aware that Atlanta had CCC business on its books stemming from transactions duly approved by BNL-Rome.

I do not recall anybody who was somebody in the BNL-Rome International Division of those days who was not boasting how instrumental he had been in handling or promoting that business since (so the story went) it was 98% guaranteed by the full faith and trust of the USA. As a matter of fact they even wanted Los Angeles to embark into CCC business.

To the best of my recollection, however, I never saw a proposal for new CCC transactions crossing my desk. As for the previous ones, lacking any indication of "irregularities" which were never brought to my attention I lived under the reasonable belief that whatever CCC transaction we had on the books had already been authorized by Rome. I had no knowledge of MTL's to Iraq.

On September 30, 1993 I heard Mr. C. Drogoul testify under oath in the US District Court of Atlanta that he had been encouraged by or was in agreement with Messrs. Pedde, Florio, Guadagnini, Lombardi and Monoco (all of them BNL officers either from BNL-Rome or NY) to lend to Iraq.

On a previous occasion (Jan/Feb. 89) while I was touring the Chicago area making business calls arranged by the local BNL manager who needed a booster from a professional banker and who was accompanying me, we visited with a local bank whose Chairman or President mentioned to us that BNL Atlanta particularly competitive in CCC transactions. I directed my BNL Chicago Mgr. to specifically include the information in the call report that it was his duty to write to for Head Office Rome, which he did after some arm-twisting. Since I left BNL N.A. Area shortly thereafter, I never heard what Rome did with that information.

At any rate, the information was reiterated to H.O. Rome in the course of my evaluation of Drogoul's business performances for 1988. What I did not know then is that, according to copies of documents appeared in the first printed volumes of the Italian Senate Committee that concluded its "works" on April 29, 1992, almost everybody in the BNL's foreign network (i.e. London, Toronto, Frankfurt, the Far East) knew Atlanta's "irregular" activity with Iraq and kept it from me.

As for Toronto (i.e. BNL of Canada) the news that its General Manager was dealing with Drogoul in the case of the General Motors car supply to Iraq came as a big surprise to me since at that time (Jan.-April 1989) not only was I never the Deputy Chairman of BNL-Canada but I was its only Director empowered with the authority of rejecting a business proposition before it reached the full Board of Directors.

Since BNL of Canada's G.M. was also sitting on its Board, keeping the information from me may have amounted to gross impropriety.

Likewise for Rome. Aside from keeping for themselves the

information that C. Drogoul was touring the Middle East (another huge negligence), H.O. never uttered a word to me about the humongous financing that they were planning to put through Atlanta in order to accommodate the Daniele Group Udine (Italy).

4. Do you have any reason to believe that nay part of the U.S., Italian, or U.K. governments were aware of the CCC or MTL loans to Iraq prior to the BNL raid on August 4, 1989? Please explain.

Recent published reports of the Italian Senate hearings on the BNL Atlanta scam attribute to Mr. G. De Michelis, the former Italian Minister of Foreign Affairs presently under investigation, statements the nature of which lead any reasonable person to believe that he may have known that some lending to Iraq was going on prior to August 4, 1989.

According to the August 4, 1993 hearing of the present Italian Senate Committee, written transcripts covers the meeting between De Michelis and Tarrik Aziz which took place in the immediate vicinity of Aug. 4, '89. On that occasion De Michelis stated that only one loan to Iraq "had characteristics of irregularity". He says now that the circumstances surrounding BNL's loan to Iraq present delicate aspects of Italian domestic politics; he did not elaborate.

At the September 23, 1993 hearing, Mr. B. Bottai, Secretary General to the Italian Foreign Ministry stated, presumably referring to the Italian Embassy in Washington that "the behavior of the Embassy was the one suggested also by the Ministry of Treasury, guardian angel of BNL's. " At any rate," he continued, "it was in the interest of Italy that the responsibilities remained circumscribed to the Atlanta Agency".

My reasons to believe that also the US and UK governments "were aware" stem exclusively from reports aired by the media or printed in the press, domestic and international.

5. Do you have any reason to believe that the commodities purchased by Iraq with CCC-guaranteed loans were diverted for military goods? Please explain.

None, except those derived from the reading of books and press reports that have extensively covered the subject matter. Something came on television too.

Of course, the present Italian Senate Committee is also subjecting the matter to a certain degree of scrutiny.

6. What is your knowledge of BNL's relationship with Kissinger Associates? Did you have any contact with Kissinger Associates? Did you or anyone else at BNL ever discuss the CCC or MTL loans to Iraq with Kissinger Associates?

I was not aware of the existence of Kissinger Associates until after I came back to the USA in July 1987 (my previous tenure as Co. Mgr. of BNL's NY Branch - then BNL's only office in the USA - had spanned from 1962 to 1974).

Until then I had been led by Mr. A. Florio to believe that the connection the bank had was solely with Dr. H. Kissinger who used to sit on the bank's International Advisory Board, later chaired by the late G. Carli, the Italian Minister of the Treasury at the time the Atlanta scam was in full swing.

I learned about Kissinger Associates and its members from the newspapers in N.Y. because to the best of my recollection, nobody at Kissinger Associates seemed to acknowledge that I had replaced Mr. Guadagnini.

To be more specific, I do not believe they knew I existed until when (Feb. '89) I was asked by Pedde to contact a Mr. Stoga, whom I met.

With hindsight, what I understood was that the bank was looking for space in Washington. Because Mr. B. Scowcroft had been appointed Military Advisor to Mr. G. Bush, the then newly-elected President of the USA, my mission must have been to sound out whether there would be a "vacant" room at Kissinger Associates Washington for a BNL officer to use.

In all honesty I do not recall having even posed the question to Mr. Stoga since from the context of his remarks I must have come to the early conclusion that there would not be space available under any circumstance, a hunch that I must have conveyed to Mr. Pedde.

I never discussed any loan whatsoever in any shape or form to Iraq with Kissinger Associates or anybody else on earth.

I did not know then of anybody else from BNL doing that. Kissinger Associates may have been led to believe that BNL's Regional Manager was still my predecessor and Atlanta was the mother branch of the USA BNL's Organization.

7. Please provide any comments you have on the Justice Department's handling of the BNL investigation. Do you have any comments on Judge Lacey's BNL Report?

A book¹ has it that BNL's good fortune started on August 6, 1989 when its people were caused to bump into a criminal lawyer who was close to the prosecution. In addition, the "Di Vita Diaries", this monument to human stupidity² leave the impression that no sooner the decision had been that the bank was a victim than it was proper for the prosecution to share any information with the people from BNL, its lawyers and the Italian Embassy who, according to the comments that a member of the prosecution task force offered to me on two occasions in Atlanta, had instituted daily contact with the Atlanta D.A. Office (see also page 242 "Progetto Babilonia" covering the height of the Italian Senate Telephone bill with Atlanta), a circumstance never explored by the Italian Senators who seem to have been charged by themselves with "the responsibility of safeguarding the image of the Country" - hearing no. 13 - rather than understanding how it happened which was presumably the task the Italian Parliament gave them.

This is not to say that BNL, as distinguished from some of its politically appointed, incompetent officers, was not a victim.

As recent Italian events show, the whole Italian Banking system has been the victim of greedy political crooks who, over the last 10-15 years, were able to push aside professional bankers and make room for their appointees totally devoid of a culture that makes concepts like "risk assessment" and "risk control," some of the benchmarks real bankers measure themselves against. Some of them seem to have been totally devoid of any moral or legal compass. In connection with the now unfolding "Ferruzzi Group-Emimont" scandal, the former Chairman of one of Italy's very, very large banks is now a fugitive from the Italian justice. His deputy, still in office at the time the scandal was uncovered, is now in jail because of money that he took without having title to it.

¹Tonello, Fabrizio. Progetto Babilonia. p. 196-7. Ed. Garzanti, 1993.

²As a footnote to the "Di Vito Diaries," it has to be mentioned that while BNL's lawyers were claiming on Sept. 29, 1992 in the Shoob Court in Atlanta that the "diaries" were covered by "lawyer-client privileges" and as such are not admissible in court, BNL chairmanship was simultaneously issuing a press report in Rome, Italy for the consumption of the Italian press that practically said of the Hon. Judge Shoob: "Why is this old goat making so much over "diaries" that have been under public eyes for months now? Is it for practical reasons?" Thus spoke Mr. Cantoni who may have conveniently forgot that he, like his predecessor Nesi, was appointed BNL's Chairman only because he was sponsored by one Bettino Craxi the then powerful boss of the Italian Socialist party, now (Bettino Craxi) either under criminal investigation or indictment.

To revert to Atlanta I found it amazing that people from the GAO had to travel to see me in 1991 to get from me the same information that I had given the Atlanta prosecutors in January 1991, the first time ever that I was going to be deposed in Atlanta.

The second time was when, after being hastily invited by phone during the afternoon hours of March 18, 1991, I was asked by the prosecutors to return to Atlanta the next day to talk to some "Italian Gentlemen who were leaving town on March 19". Nobody ever explained to me the reason why my invitation was delayed to the very last minute unless they were hoping that I was out of town.

The Atlanta prosecutors requested that I talk English. In turn I requested that the ensuing "information paper" be submitted for my approval and signature before dissemination.

It was only after a number of phone calls and several months later (end of February 1992) that the paper came back to me for my approval. It was full of so many inaccuracies I could barely recognize its content as mine. I sent it back with extensive corrections, large additions and a covering letter dated April 6, 1992 which I still wonder whether the prosecutors liked. In fact I told them I did not like at all the way they had handled the whole matter.

It also turned out that on March 19, 1991, unknown to me, I had been "present" in Atlanta under the terms of a Commission dated June 26, 1990 No. 15859/89C" the existence of which (but not its contents) was brought to my knowledge only in February 1992, almost one year after I had been deposed.

I have always been under the professional impression that in Jul./Aug. '88 it would not have been too difficult to discover what was going on in Atlanta without resorting to granting immunity to anybody which in my opinion was the first and lasting factor in the prosecutor's decision to single out Drogoul as the one and only main player in the scam.

I also thought that given the existence of a "Treaty of Mutual Assistance in Criminal Matters between Italy and USA" dated Nov. 9, 1982 it would have been more appropriate for the USA prosecutors to immediately conduct their own Italian equivalent.

If by any chance the latter had been magistrates of the quality of Saverio Borrelli, Felice Casson, Antonio D. Pietro and the five other heroes of the Italian Judiciary still alive it may very well be that the matter would have been resolved some time ago, with a different or more comprehensible ending.

Talking about which, things get really complicated, In January 1991 when my presence was first requested in Atlanta, Ms. Gale McKenzie, Asst. US Attorney, told me that I had never been the target of an investigation, I did not need a lawyer and, had BNL left me in N.Y., there would not have been any need for the FBI to uncover the scam because Mr. Sardelli was on the right track. That's what she told me, adding that because of the way I was handling myself I could still enjoy, regardless of age, 15 more years of professional life. Moreover, come September 14, 1992, during Mr. C. Drogoul's first aborted sentence hearing, the Hon. Judge Marvin H. Shoob inquired with the prosecution whether the court could have relied on the findings of the "Italian

Parliamentary Committee on the case of the Atlanta Branch of BNL and its connections" published on April 22, 1992.

The prosecutor's answer, which I considered a forensic masterpiece was

I am not sure it's the same one that I have. I have seen nothing in the two reports that I have, I have not seen any fact that is in any way inconsistent with anything that our task force has found.

In answer to the court's question on whether the court should or can rely on its conclusions, I am not sure what those conclusions are, but I would say, no, I don't know what their methodology was, I don't know what their policies are that caused this report to be written, and I don't know what facts they based their conclusions on. If there is some fact that is in the report that the court feels has not been addressed by the government, let us know, and we will tell you. (page 16 of the Court transcript of 9/14/92):

But come September 29, 1992 Mr. Drogoul's defense lawyer after having duly subpoenaed me, calls me to the stand and although my sworn testimony is no different from those I gave in Atlanta in January and March '91 and in New York to the Italian Senators, I am not sure that the prosecution liked it (to be fair it seems like much less the testimony given by Mr. Drogoul on the same and subsequent and-again, under oath, again implicating, as in the past, everybody except Mr. Sardelli - although it was no different from previous testimony given to the prosecutor, the Italian Senators and press interviews to newspapers who cared enough to start venting the truth).

As we all know, in order to quash Judge Shoob's and public opinion's cry that a special prosecutor should be appointed, the then A.G. William P. Barr on Oct. 16, '92 appointed an independent counsel instead, in the person of Judge Frederick B. Lacey who was then conveniently given a December 8, 1992 deadline to report his findings (we all know that in all cases of this nature deadlines are almost always meant as an insurance policy against truths that having always been there in the first place will only be let surface at a future time when they can do no harm). Ignoring and revising his forensic stand of September 14, 1992 the prosecutor on Dec. 1, 1992 supplied Mr. Lacey with a memorandum almost exclusively based on the Italian Parliamentary Commission report, the original version of which contains unexpurgated garbage vastly comprised of false testimony under oath that were, not so curiously, let go unchallenged by the chairman of the committee and his associates, for political when not personal reasons, primarily represented, when the latter was the case, by their need to save their political friends like Nesi and Pedde from the scrutiny of "Operazione Mani Pulite," just begun.

Little did the Atlanta prosecutor and Mr. F. Lacey know (or didn't they?) that on April 6, 1992 (i.e. before April 20, 92, the

day the by now "Senators no more" had disposed their "report" of an unfinished investigation, the whole Chairmanship (that is Chairman and Vice Chairman) and many of the Senators who comprised the original Committee had been voted out of office by the outraged Italian people who had not at all liked the Committee joggling and discarding "conclusions" for three months so that they could have issued the one most important self-serving and convenient to their friends, political or otherwise. Even the Atlanta prosecutors admitted there was more than one version of the same report.

Little did they know, as rumors had it in Italy, the task of the first Italian Senate fact-finding committee was to identify what evidence (if any) potentially damaging to Nesi, Pedde and their acolytes did future key witnesses have in their hands so that the Committee would publish it. In the process the old people from the bank would see it, contradict the evidence by fabricating whatever lie was necessary which would then go unchallenged by the Committee.

Those were the rumors except that the net result was extremely close to the scenario.

Never was the Committee, both in its original fact-finding and subsequent investigative version allowed to shed its tribal vestige: Chaired by a Sardinian, to protect Pedde, a Sardinian self-proclaimed cousin of F. Cossiga, a Sardinian who, at that time was also the President of the Italian Republic.

To foreign minds, coming from the same region or county may not be relevant. But when F. Cossiga, then still in office, goes on television and states "We Sardinians come from a culture of bandits" even skeptic Italians are stunned by the undignified utterance.

It makes one come to the conclusion that, lest the truth is manipulated against you, caution (even reticence) is in order when dealing with these people. When I rendered my testimony under oath in Atlanta in January 1991 the jury was on the verge of clapping hands and if there was a recording system in operation the sound should still be there (requested verbally to supply a copy of my testimony, if legally allowable, the Atlanta prosecutor never bothered to give me an answer).

I leave it to anybody's judgement whether I can be subjected to anybody's intimidation when I am telling the truth to juries, judges or duly elected representatives of the people.³

³Sadly, BNL, with the help of INPS (the Italian Social Security equivalent and one of BNL's main shareholders, with a seat on its Board of Directors where the "Atlanta scam" has been closely followed) have tried to harass and intimidate me by withholding payment of pension money lawfully owed me, as two Italian Courts have already determined.

By stark contrast, BNL and INPS do not appear to have followed the same course of action in the case of N.Nesi and G. Pedde## although both were investigated and/or indicted for the "Luchair (Iran) Affair" and the "Atlanta scam," with Pedde## sentenced to a 4 year jail term for the "Luchair (Iran) Affair" whereas Nesi is still being tried on appeal by the prosecution.

How sad it is to notice instead that the prosecutors chose to ignore the conclusions that their Italian equivalent had reached while in the U.S.; conclusions that represent a tribute to the latter institutions, observations and striking clarity of judgement, as proved by their concise written report.

In fact, on May 30, 1991, on the basis of what they had heard and seen during their March 15-19 stay in Atlanta, the Italian Investigative and Prosecution Teams by whom I had been deposed on the 19th in Atlanta under the unknown to me, the Commission #15859/89C of June 26, 1990 (an investigative team comprised of the renowned Italian "Guardia di Finanza", in charge of detecting financial malfeasance in Italy) did not wait for the signed statement of the deposition I had rendered on March 19, 1991. Although I spoke in English, they, contrary to the U.S. Prosecutor, understood extremely well the nature of my testimony and after the testimony of L. Messere at Alias, the conversation they had with Gale McKenzie, the documents they were allowed to peruse (which I must say they perused much more intelligently and meticulously than other prosecutors) the information they were able to access and assess in the USA and Italy, they suggested to the Italian Criminal Prosecutor that in addition to:

- Neris Nesi -former BNL Chairman and
 - Glaesmo Pedde-Former BNL Managing Director,
- that the following people also be criminally investigated:
- Christopher Drogoul
 - Louise Messere, the N.Y. Branch Internal Auditor
 - Umberto D'Addosio (one of the present BNL Mg. Dir.'s)
 - Graziano Sartori (presently keeper of BNL books)
 - Lucio Constantini, the then Rome Chief Inspector.

The Italian investigators expressed either disbelief that nobody at BNL Rome knew, or surprise at the many material oversights that they claimed the Atlanta prosecutors had inquired into. They also questioned some of the monitoring practices of the Bank of Italy.

In the same report, "Guardia di Finanza" wrote: "Dr. Sardelli looks like the only incisive element of contrast in a diffuse evaluation of irregularities and lack of discipline which permeated the banking operating activity of all the areas of his competence".

These are the people who, living in the country that produced the Renaissance Man, are able in real life to distinguish him from other characters like the Machiavellis, Borpias and Maramaldos when influence on the present Italian environment may constitute a big unknown to foreign minds.

One is left to wonder what the attitude would have been of the Italian Control Authority whose then N.Y. Representative I had made privy to the problems I was dealing with in July 1988, had not a relative of its then Governor been an officer (together with a platoon of other "important people" relatives) of BNL N.Y., posing as the owner thereof. The Atlanta prosecutors did not seem particularly interested in the findings of "Guardia di Finanza", strangely, and suddenly siding with the Italian Senators who, being in those days covered by the unfortunate "impunity" provisions of the Italian Constitution could with impunity make up with character assassination what was lacking in real investigative expertise and logic.

One wonders: Weren't they sitting in the Italian Parliament when so many of their colleagues move under investigation or indictment were ripping off Italy?

It is evident that although being the truth, all the truth and nothing else but the truth, my sworn testimony of Sept. 29, 1992 given in Atlanta to the Hon. Judge Marvin S. Shoob may have contributed to the collapse of the house of cards into which the prosecutors, during a period of over three years had matured the unsustainable theory that Drogoul was the only perpetrator of the scam. Was it because they are only human that, although on October 5, 1992, a court of law had determined that I was the only "Straight Shooter" at BNL (a judgement reiterated on August 23, 1993) the defeated prosecutors whom time and time again I had offered my availability to help or sift through papers in Italian, chose to characterize me as "a disgruntled employee"?

Those prosecutors are wrong: utterly. I am simply a top echelon banker (March '89 BNL Mgt. Chart enclosed-Doc. D, with alphabetical order repositioned only to speed up identification), also a former Fullbright scholarship winner who is absolutely furious the sacking of his country of birth at the hand of political crooks, their incompetent appointees, the political protectors of the latter who may escape the "goal" where they belong also thanks to the qualifications or lack thereof of prosecutors who are certainly able to convince a judge to give a three year term to a thief but not thoroughly equipped to bring to justice the perpetrators of an international, multibillion dollar scam because of its ramifications, complexity, personalities, power games, denials, cultures, testimony of witnesses of countries where lying under oath is not such a big deal after all, not to mention the action of secret services and the interest of death merchants.

It has to be hoped that anywhere on earth prosecutors revert back to the old habit of making a name for themselves by bringing to justice any criminal, no matter what his station in life, rather than by getting cozy with the rich and the powerful or their friends.

In a case I know of, in order to minimize the man's visibility, the prosecutor led a court of law to believe that the man was on the verge of a financial disaster unless he found some however questionable consulting business. All the prosecutors had to do what was asked for his 1040; they would have realized that in addition to being very comfortable financially, he was still covering a number of well-paid positions in the BNL organization in the USA and Canada.

True that on a somnolent Friday afternoon of late August 1992 (a period of time during which almost all 56 million Italians who inhabit Italy are on vacation) an aging chief criminal prosecutor dropped in Italy all charges against N. Nesi, G. Pedde, L. Constantini, U.D'Aoldosio, G. Sartori and L. Messere, subject to revival, if circumstances warranted. The Italian press, however, was not at sleep yet and noticed:

- 1) Some of the charges had become moot because of intervening amnesties (they still use King's "justice" tools in Italy).

2) the "rationale" of the order was an insult to human intelligence: Since the men had done almost everything as charged, the prosecutor could not pursue the matter any further because of lack of corroboration (yet he never explained anybody the reasons why, having waited for so many years he was now, end of August 1992, no longer in the position to wait a little longer before dismissing the charges, until the end of the Drogoul trial, then in full swing, where Drogoul had already made people aware (the Italian Senators in April 1992, the Italian press in May 1992 and the Atlanta Court) he would have exposed his truth.

3) he, the Italian prosecutor, lacked corroboration because of the many difficulties encountered, "accentuated by the objectively non-exhaustive cooperation afforded by the Atlanta Federal Prosecutor" who claimed that because of the impending Atlanta trials was not in the position to satisfy all investigative exigencies submitted by the Italian prosecutor.

In almost all matters Italian, simplicity is like the fire bird: Hard to find.

The Italian prosecutor was able to issue his order when already out of office, simply because of the complicity of a disgraced socialist minister of justice who himself escaped jail because of the "impunity" provision of the Italian Constitution. Now that he is no more a member of parliament, let alone a minister ("of Justice"!!!? or was it, like in other countries we know, "of justice obstruction"?) hope has sprung again that he will go to jail.

What did Mr. Martelli (the minister) do? In June '92 he prolonged by two years the mandatory age (70 yrs.) of retirement of all Italian Prosecutors. Who was about to reach 70? Only two of them, one of whom, Mr. Giniceandrea, extensively credited loudly in public, without any consequences, of the task of keeping the lid on the Italian investigation of the Atlanta scam of which he was the ultimate Judge and Jury. Since he was also sitting on the investigation of the infamous crimes of the "Bologne railway station" (1981) Propaganda 2 (P2) Lodge (1981) the downing of an Italian airliner (1979?) over the Italian soil, actually the executive order was dubbed "Guidiceandrea Decree".

In Italy, for executive orders to stand they must be converted into law by the full Parliament who in this case refused to budge.

Unfortunately, however, although executive orders can be voted down within 90 days, the decisions made in the meanwhile can't be rolled back. So, case dropped in Italy, at least for the time being.

What is refreshing to know is that Mr. Guidiceandrea, together with the then socialist Minister of Finance, are under investigation for usage of public property without the consideration (more clearly, the former was inhabiting one of the most prestigious Roman apartments, for a rent of \$100-a-month, with the blessing of the latter, one Ms. Formica; the apartment is owned by the taxpayers.

In the end, the Italian Senators found the way of letting

people believe I have a very bad temper. Which is indeed true. However, I was surprised to know that they were able to experience directly the manifestation thereof.

You see, Mr. Chairman, ever since I was a boy a very uncompromising father trained me to be furious at fascists, communists, crooks, people who although incompetent feel that everything is owed them because of the name they wear or the boss whom they report to. Well I leave it to the Senators to take their pick because, other than that I seem to be a very sweet man, judging from testimonials of date unimpeachable, as witnessed by one of them enclosed (Doc E).

I believe the zenith of ridicule must have been reached in the Shoob Courtroom on Sept. 29, 1992 when the prosecutor was trying to convince me on the stand (and evidently Judge Shoob) that although one of my letters in Italian said something which had been even acknowledged by the Auditors of the Bank of Italy, in reality either I did not mean it or worse, I meant something else.

History can't be rewritten. at the end of November 1988, after the ill-fated visit to N.Y. of N. Nesi (July 88) and G. Pedde (October 88) none other than the Chairman of BNL International Advisory Board came to N.Y. and wanted to talk to me.

He told me that "these two people had developed such dislike for each other that they were at each other's throat every day".

He added that because of the reputation and regard that I enjoyed with BNL's grass roots (the people who had broken their backs to propel into first place in Italy a bank that was born in 1913 in the rural recesses of the country) and the high opinion in which both Nesi and Pedde seemed to hold me in those days, it would be in the best interest of BNL if I were to find a way to tell them to stop acting like infants.

In turn I told him that unfortunately I could not be of any further assistance since I felt I was already on my way out due to unreconcilable differences with Nesi, Pedde and their hand-picked cohort of barbarians.

As for the "Lacey Report" I have no comments. Let's face it: who am I to take issue with the judgement of the distinguished Chairman from Texas or the brilliant penmanship of a renowned N.Y. Times columnist?

Certainly in the world of the banks I know, many things that Mr. Lacey finds hard to believe do happen. He would be surprised how many additional things Italian banks do.

However, given the qualifications he claims he has, I in turn find it difficult to believe that he may have been taken for a ride.

Surely, in his infinite wisdom, Mr. Lacey was under no obligation to interview me to make double sure that he got everything straight, including his act.

Had he chosen to do so, I might have told him that. during the last months of my tenure as BNL's Regional Mgr. in NY I had developed the hunch that by reporting to Pedde, in all actuality I was reporting to the enemy within. Let's face it, in addition to whatever I was feeding central Auditing Dept. and himself on C. Drogoul with, I wrote to him that according to Mantec's Chairman (a publicly held company whose stocks were listed on the N.Y. Stock

Exchange) the man in charge of Administration at BNL NY was Purposely delaying the implementation of BNL NY's Electronic Data Processing System: To no avail.

-I wrote to him that according to NY Auditor's reports there were in the NY Branch hundreds of accounts that had not been reconciled for years: To no avail.

-I wrote to him that the horde of BNL personal that he had sent to NY was behaving in a manner that could have exposed the Bank to serious penalties since the USA are not Italy: To no avail.

-I wrote to him that BNL Officers in NY were granting themselves loans from BNL and some of them were not paying interest either: To no avail.

-I wrote to him that our Rate of Return was dismal, officers were scratching their bellies rather than producing or securing business, we could have doubled our profit by outplacing 85% of the workforce, officers were underselling bank's assets 50 cents to the dollar: To no avail.

-The Chairman of BNL's Canadian affiliate had submitted his report to BNL Rome according to which the affiliate's previous G.M. had been grossly negligent in granting loans that had turned out to be total losses to the bank: To no avail, except that Pedde handpicked that Gen. Mgr, promoted him and sent him to manage an important BNL foreign Branch.

-I wrote to him that BNL officers were postponing without authority maturities of loans that had turned to be losses to the bank: To no avail.

-I wrote to him that, according to the way that NY Money Center Banks were treating us it looked like we were the boys that were supposed to swallow any deal that they cared to dump on us, however dismal or inadequately our profit would be or greater our risk, and refrain from speaking: To no avail.

I could have told Mr. Lacey but he never asked. On the other hand, the Italian Senators whom I told the same thing though that they were "non pertinent personalisms".

I always wonder why, having adopted an attitude familiar to godfathers they did not rate my remarks as not pardonable.

I might have also suggested Mr. Lacey that he gave a closer look to the so called "ratification" by BNL of the Iraqi loans (the Geneva agreement of 1990).

You see, in Italy when a M.D., a G.M., a member of the Board of Auditors (the latter being an official body covered in Italy by the company's by-laws because it is first of all made mandatory) or anybody who has that responsibility, signs a financial statement that turns out to be false, it is almost irrelevant whether he signed it knowing or not knowing that it was false.

For the law he is potentially and criminally guilty under a proviso that is known in Italy as "objective responsibility".

Now, did the people from BNL "ratify" the loans to cover themselves from "objective responsibility"?

Besides, had the Gulf War not happened, wouldn't BNL have stood nearby to harvest a crop of money (Di Vito's Diaries "docet": Commissions up to 8%) thus making of Drogoul an overnight hero? After all, Mr. De Michelis said that only one of the loans to Iraq had "characteristics of irregularities".

And by the way, did anybody look into the possibility ("absit iniuria verbis" or "Howy soit qui mol y peuse") that, as the Italian press extensively rumored in those days, kickbacks may have resulted from the "ratification"?

Talking about the press, did Mr. Lacey know that one of the most respected Italian magazines ("Business Week" equivalent "Il Mondo") in January, 1991, before the USA went to war against Iraq, published my picture next to Gen. N. Schwartzkopf's claiming that had BNL heeded my warnings, the good General would now begin to fight Iraq minus \$5 billion in weapons? As we all know, Mr. Chairman the figure was a bit exaggerated. I can tell you that nothing else in that article was.

I may be wrong but to me it looks like Mr. Lacey and the Atlanta prosecutors adopted the same attitude displayed by Pedde: They were selective readers and listeners.

By contrast, good bankers try to read everything that is meaningful.

Let's hope that the demand for their services which has given extremely thin during the last 15-20 yrs. goes up to more decent levels.

8. Please comment on the Italian government's use of BNL-Atlanta to finance the sale of military hardware such as Sidewinder missiles and attack helicopters.

To the best of my recollection I did not have any knowledge of the sidewinder transactions until I read about them in press exports or transcripts of the current Italian Senate committee hearing.

The contents of hearing transcripts # 12-13-14-15-16 make interesting reading, with the names of Messrs. Drogoul and Vincenzino among others continuing to surface whereas one of the Senators wonders loudly whether Mr. Vincenzino is a US intelligence agent.

It has come as a surprise to me that Mr. Drogoul, in corresponding with the Italian Military Air Force attache in Washington D.C. used to send a copy of the correspondence to Mr. Vincenzino at BNL-New York (Hearing #12; August 4, 1993). Not to me. Seemingly this was taking place between March 1988 and July 1989. Since I never instructed Drogoul to follow that or any other procedure nor did Mr. Vincenzino ever bother telling me about it or the relative transactions, I wonder who told the two gentlemen to liaise on the Sidewinder supply (or spare parts thereof).

While still at a desk job at H.O. Rome, Mr. Vincenzino was accompanying to Washington D.C. managers of the Italian Defense Department.

9. What is your knowledge of BNL's relationship with the Bank of Credit and Commerce International (BCCI)?

As for a connection between BNL and BCCI I will say a distinction is in order between BNL as an institution and BNL's people who had a penchant for shaky deals.

On December 25 (i.e. the twenty-fifth day of December) 1975 when I was G. Pedde's deputy in Geneva I was approached by Prof. A. Ferrari, his mentor and the then BNL's Managing Director who had to resign in shame in 1981 because of his affiliation with Lodge P2 an illegal lodge in Italy (still under criminal investigation after 12 years) the existence of which so much shame, sorrow and death has befallen on that most unfortunate country.

On account of my foreign experience which by then already spanned over 14 years, Ferrari asked me to go to the Gulf area, specifically the Emirates, Iman, and whatever was left of Beirut, Lebanon to explore the possibility that BNL plant there a merchant bank in partnership, as he put it, with a group of BNL friends.

I toured the area for one month and when I reported back to Ferrari I informed him that of the people whom I had met were his friends (Pakistani nationals connected to BCCI) I was the wrong man to lead the joint venture and he, Ferrari, and to look someplace else for a different man.

I understand later that in order to be close to the same people, Ferrari and A. Florio (a man Ferrari had handpicked to become the next boss of BNL's International Division) were organizing a BNL financial affiliate in Luxembourg, which I had no part whatsoever into.

According to G. Pedde's testimony to the Italian Senate in January 1991, their affiliate "almost exhausted at one point BNL's borrowing capacity from the market". Nobody was fired. Not surprisingly Luxembourg had been chosen by the Italian Socialists as the place of incorporation of their "Bank" where most of the big kickbacks were stashed away.

Since Ferrari was a close friend of R. Calvi's, the Chairman of the Board of Banco Ammesiano who has suicided under the Black Friar's Bridge in London (I believe in 1981), he, assisted by A. Florio, was able to put on the books of BNL's affiliate "Capitalfin" (a company organized with the Italian "elite" like Banco Abrosiano) deals that invariably lost money. Only BNL's. In those days "Capitalfin" was managed by Ferrari's handpicked president A. Caloni who then went on to replace Msgr. Marcinkus (a friend of M. Simolema's and R. Calvi) at the helm of the Vatican Bank, presently the subject of an Italian "Rogatory" for channelling money allegedly used for political kickbacks. Other than that it has to be said that the relationship with BCCI and people like Garth Pharaon and Marc Rich were exclusive domain of A. Ferrari, A. Florio and A. Conzara.

The "Di Vito Diaries" mention (August 5, 1991) that Banque de Commerce et du Placements-Geneva, Switzerland (the president of which used to be Zurich BNL's Lavoro Bank A.G.'s President A. Hortman), was previously owned by ENI Rome.

ENI's foreign subsidiaries were usually managed by one F. Fiorissi who later went on his own to land in jail, according to

published reports.

Domestically, Enimont, Milan landed in the newspapers when people like R. Gardini and Cagliari committed suicide (or so the story went) over the Ferruzzi Group involvement in "Operazione Mani Pulite" (Clean Hands Operations).

Another BNL relationship closely followed by A. Florio, A. Lanzara, G. Sartoretti and A. Costa was B.A.I.I.'s, also to be found in the "Di Vito Diaries".

DOCUMENT A

Acts of Parliament

204

Senate of the Republic

X Legislature - Bills and Reports - Documents

20. **BNL BOARD OF DIRECTORS JANUARY 7, 1988 RESOLUTION.**

On January 7, 1988, the BNL Board of Directors passed a resolution in reaction to the [the Atlanta affair]. The Board decided to restructure the functions and authority of the North and Central American Area Management to "avoid overlapping in the bank's foreign structures and to enhance coordination between strategic choices and market development for the entire BNL Group." (See document 49, report to the Board of Directors, January 7, 1988 meeting.)

This change was meant to be experimental (therefore subject to change) with a view toward expansion into other existing or future Areas.

A resolution to create the North and Central American Area was passed by the Board of Directors on September 9, 1981. The geographical area was limited to the US, Canada and Mexico. The Board also set restrictions for the Area Management on authority to issue credit in the branches operating in these areas. (Later, on 10/21/82 the Board of Directors further specified functions and responsibilities.)

The January 7, 1988 resolution established:

a. Responsibility and Authority.

North and Central American Area Management has responsibility over branches in the US, Canada and Mexico and is located in the same building as the New York branch. North and Central American Management consists of a Director who is the Bank's senior representative in the area and is the operational coordinator for the entire BNL Group (the Bank and its Affiliates.) Proper implementation of strategic decisions is thus assured.

The Area Manager is directly responsible to the General Manager. From a functional point of view, he implements the credit guidelines coordinated with the Central Offices. To fulfill his duties, he has several assistants. The number of assistants depends on the annual expense budget.

Should the Area Manager be absent or unable to fulfill his duties the New York branch Director will be responsible.

Within his geographical area, the Area Manager:

12 - protects the Group's interests, promotes its image and coordinates its activities by keeping high level contacts with Government and monetary authorities, transnational organizations (especially financial), political leadership and the principal

multinational corporations. (15) Such activities will be conducted (16) in the most proper ways and means according to the decisions and/or recommendations made by the appropriate central offices;

- recommends strategic choices to the appropriate central offices. Depending on the market situation, he (17) recommends what actions the BNL Group should be taken or emphasized with the goal of increasing harmonious interaction;

(18) studies and negotiates budget proposals (19) for the various Group units under his jurisdiction. One of the goals is to assure consistency among the approaches defined by the appropriate central offices;

(21) - ensures the activities of the various Group units and (22) assures that the actions undertaken by each unit head are consistent with the goals set in the negotiated budgets. In order to do this, he has access to specific information agreed upon with the appropriate central offices;

(25) - presents the Group's policies when asked to participate in the Affiliates' Board of Directors' meetings.

Furthermore, (26) as far as BNL branches in the US only are concerned, the Manager for the North and Central American Area chairs:

(28) - the Credit Committee to review credit line proposals which exceed the individual branches' authority. [The Manager] approves proposals which fall within the Area's jurisdiction as authorized by the Board of Directors and forwards those proposals for amounts exceeding that authorization to the appropriate Central Office when approval is expected.

(29) - the Expense Committee to review proposals which exceed the individual branches' authority. [The Manager] makes a decision on proposals which fall within the Area's jurisdiction as authorized by the Board of Directors and forwards proposals for amounts exceeding that authorization to the appropriate Central Office when approval is expected.

The Credit Committee is composed of:

(30) - The Area Manager, or the New York Branch Manager in his absence or incapacitation;

- The New York Branch Manager or the head of the Commercial Department in his absence or incapacitation;

- The head of the New York branch Commercial Department or by

whoever replaces him in his absence or incapacitation;

- The head of the New York branch Financial Department or by whoever replaces him in his absence or incapacitation;

(30) Approval will be given by the Area Manager, or by whoever replaces him in his absence, with the consensus of at least two additional members or acting members. (31)

The Expense Committee is made up of:

(32) - The Area Manager or the New York Branch Area Manager who replaces him in his absence or incapacitation;

- The New York Branch Manager or the Commercial Department head who replaces him in his absence or incapacitation;

- The head of the New York Branch Commercial Department or whoever replaces him in his absence or incapacitation;

- The head of the New York Branch Financial Department or whoever replaces him in his absence or incapacitation;

- The head of the New York Branch Administrative Department or whoever replaces him in his absence or incapacitation.

(30) Approval will be given by the Area Manager, or by his replacement in his absence, with the consensus of at least two additional members or acting members. (35)

The Area Manager will also approve, upon the New York Branch Manager's recommendation (32)

- hiring of local staff whose numbers, salaries, (33) qualifications and benefits which have been previously agreed upon with the appropriate Central Office (Personnel). The latter will be informed of the hiring;

(34) - proposals submitted to the appropriate Central Office concerning career decisions or any other decision affecting personnel;

(35) - any transfer of personnel among BNL branches operating in the Area. (36)

(37) The Area Manager is also responsible for forwarding requests concerning BNL personnel (with an Italian contract) on assignment to branches operating in the Area to the appropriate Central Office.

Expense documents relative to the Area's functions will be forwarded monthly to the New York Branch's Administrative Department which in turn forwards them to the Groups' individual operating units for which the activity is being conducted. This will be done according to principles of authority established by the Area itself.

b. New York Branch Responsibility and Authority.

The New York Branch is the Head Branch for all the Bank's branches and the Offices of Representation operating in the North and Central American Area. The New York Branch is also responsible for coordinating production, finances and administration.

The New York Branch is divided in three Departments:

- Commercial
- Financial
- Administrative.

Each Department has a Department Head who is responsible to the Branch Manager.

Branch Management is composed of the Manager and the three Department Heads.

The Branch Manager, who is responsible to the Area Manager, is replaced by the Commercial Department Head in case of absence or incapacitation.

In particular the Branch Manager has the following responsibilities vis à vis the individual branches:

- guides the activities of the operational Departments, monitors ~~work~~ ^{spends} and management in general;

- guides and coordinates management of the individual branches;

- recommends the branches' and the individual operating units' annual budget to Area Management. He verifies whether the budget is consistent with the decisions made and the goals assigned by the Area Manager;

- monitors the cost/benefit relationship for individual services with the overall goal of containing expenses rigorously. With the approval of the appropriate Central Office he may also use contractors should they be more cost effective;

(48)
- recommends hiring of local staff to Area Management along with any type of career decision including transfers affecting the New York branch and all branch personnel;

- submits all proposals exceeding limits authorized for the Branch by the Board of Directors to the Credit Committee and the Expense Committee of the Area. (49)

Within the New York Branch there is an Auditing Department which makes use of the Branch's facilities. The Auditing Department reports to the Inspectorate and Security Office of the Central Office. The Central Office, the Area Manager or the Branch Manager may task the Auditing Department with conducting occasional and periodic audits and inspections either at the Branch itself or at the other bank branches. Upon the General Manager's or Area Manager's request, the Auditing Department can conduct inspections and audits even at other BNL Group's branches operating in the Area unless third party rights or local laws are impinged.

Credit line and expense proposals which fall within the limits established for the New York branch by the Board of Directors must be examined and decided by the Credit Committee and the Expense Committee of the branch itself. These are presided over by the Manager or his replacement in his absence or incapacitation.

The Credit Committee is composed of the Branch Manager and the Heads of the Commercial Department and the Financial

Department, or their replacements in their absence or incapacitation. The decisions will be made by the Branch Manager (or whoever is replacing him) with the joint approval of at least one other member (or his replacement.)

(53)
c. The main characteristic of the three Departments, which constitute the structure of the Branch, is that they fall under the authority of the Branch Manager who is himself responsible to the appropriate central office functionally; (54)

(55)
d. The Branches [which fall under the New York Branch] are structured the same way as the New York Branch (one Manager and three Department Heads):

(56)
- the individual Branch Managers are responsible to the New York Branch Manager;

(57)
- the Department Heads are responsible to their Manager and functionally to their counterparts in the corresponding Department of the New York Branch;

- the Branch Managers are replaced by the Head of the Commercial Department in case of absence or incapacitation.

Within each ⁽⁵⁵⁾ branch and within the limits of authority established by the Board of Directors, a Credit Committee and an Expense Committee are established whose functions and powers are the same as those established for the New York Branch. Each branch will keep a copy of the ⁽⁵⁶⁾ [Signature] Book.

e. The heads of the representative offices which operate in the North and Central American Area report to the New York Branch Manager and functionally to the heads of each Department (Commercial, Financial and Administrative) of the respective branch for individual issues of authority.

The report has an attachment which summarizes the authorization limits for active operations. The attachment is reproduced below to give a precise idea of the exact amounts authorized for the North and Central American Area and its affiliates.

Credit lines above the amounts shown below had to be authorized by the Central Office.

Credit line unit limits	North & Central Am. Manager	New York Branch	Atlanta, Chicago, L.A., Miami Branches
1 st Category	5,000 (ex 1,000)	1,000 (ex 300)	500 (ex 150)
2 nd Category	10,000 (ex 2,000)	2,000 (ex 600)	1,000 (ex 300)
3 rd Category	15,000 (ex 3,000)	3,000 (ex 900)	1,500 (ex 450)
4 th Category	20,000 (ex 4,000)	4,000 (ex 1,200)	2,000 (ex 600)
Maximum for each client	25,000 (ex 5,000)	5,000 (ex 500)	2,500 (ex 750)

(Amounts expressed in Thousands of US Dollars or equivalent)

The resolution was followed by a letter dated January 25, 1988 sent by General Manager PEDDE to the Area Manager SARDELLI to ask the latter to draft the by-laws based on the framework established for the areas and the Central Office.

In giving instructions on the framework of the by-laws, the General Manager indicated that "cooperation" between operating

units and the bank's central management was the best way to achieve "smooth integration of the structures with the primary goal of meeting the most important requirement, that is, to satisfy the market". Furthermore, he emphasized that it was necessary to regain momentum and the know-how to keep up with the innovative process". This is based on the observation that no one "better than we can identify the bank's needs and satisfy them".

Finally, keeping in mind what has just been highlighted, PEDDE made the following observations on general principles and planning:

- The creation of Peripheral Areas is based on the [above] and the commitment required must be made consistent with the commitment to seek new models. For this reason, the Peripheral Areas have been placed directly under the central office, just like the central areas".

"The Area Manager has the prime responsibility, with broad promotional and management authority, and is in direct contact with the bank's central management to whom he is directly responsible. Within the Area and within the limits set by the regulations, there is ample room [for managerial] initiative in running the bank's peripheral operations. This does not apply, however, to overall initiatives in the bank's area of authority. There is also room at the decision-making level despite specific limits (credit lines, expenses). The manager makes decisions based on his discretion and ability."

- "The Area Manager must remain accessible [and] be the only authority to whom his units report so as to avoid the costly and often unproductive recourse of the latter to the central offices to the extent possible. Liaison with the central offices must be maintained by the area manager who in this way will be at the same decision-making level [as the Central Office] and will be able to offer solutions in real-time."

- "Continuous steps must be taken to assure that area structures operate freely without excess bureaucracy and indecisiveness. Relations among staff must be based on the utmost cooperation and decision making collegiality with a respect for respective roles and regulated operating authority. Everybody must feel that he is a necessary part of an harmonious process and must be suitably encouraged and valued for his contribution. A sense of motivation must be instilled and maintained in everybody by establishing and enforcing the best rules of behavior of team discipline."

- "The market in your Area is almost unlimited in size. It is essential to seek out the weakest segments to contain costs: avoid inefficient programs, concentrate on more limited areas and zones

in order to analyze them more effectively and assess possible gain and organize initiatives so that the subsystem of offices, branches and affiliates does not become self-governed with inefficient and unorganized actions. Encourage staff to be perceptive and practical so as to develop professional attitudes in keeping with the overall goal."

- "Area Management therefore sees itself like a central management limited in size to which the various centers of authority should look to for orientation and self-government. Proper integration should be achieved through the area committee. If the structure is defective, it is up to the men who command it to make the necessary corrections, adjustments and changes: but it is the men who, in companies like ours which provide a service, determine the results and the blueprint for the company."

Within this context and keeping in mind the reorganization described above which highlights Area staff qualifications and professional commitment, a reminder is in place concerning MISASI. The latter was the New York Branch Manager operating in the North and Central American Area, from January 1988 until January 1989 (when he was replaced by VECCHI). During his July 25, 1991 testimony to the Committee, Misasi admitted that he did not know English. It was only when he was appointed to New York that he made an effort to learn English. This was confirmed by PEDDE during his January 23, 1991 hearing to the Committee. PEDDE emphasized that when MISASI arrived in New York on January 5, 1988 "he did not know any English and was forced to study it on-site".

Another reminder that VECCHI, the New York Branch Manager from January 1989, also refused to supervise area branches and left this task to the Area Manager. He himself stated this to the Senatorial Committee. He explained his behavior by saying that the January 7, 1988 BNL Board of Director's resolution was not followed by the necessary implementing instructions. Furthermore, Vecchi stated that he was completely absorbed by the commitments related to the reorganization of the New York Branch which could not be put off.

**Sardelli's Comments on the Italian Senate's "Acts of Parliament,"
pp. 204-211**

1. The Corporate Resolution changing the structure of the N.A.Area is dated Jan. 20, 1988 rather than Jan. 7.
2. Since the "Atlanta Affair" began Aug. 4, 1989, clearly the resolution was not adopted "in reaction to the Atlanta Affair"
3. The statement "This change was meant to be experimental...." is utterly untrue.
4. To which all units displayed
5. refer
6. and identifies itself with its Manager
7. perform functions of high level representation and operative coordination for the whole BNL Group (my note: i.e. the Bank proper on the one hand and its affiliates on the other) thus assuring the proper implementation of the strategic guidelines given to him.
8. hierarchically answerable directly
9. operates along lines mutually agreed upon with the appropriate Central functions within limits pro-tempore governing topics such as expenses and granting credit facilities to customers
10. In order to discharge his responsibilities he avails himself of assistants the number of which will be mutually agreed upon when the annual budget is negotiated (my note: for 1988 and 1989 the number of assistants was 1 -letter H.O. 10/27/88)
11. same will be discharged by the New York Branch Manager
12. Takes care of
13. its initiatives
14. and
15. prominents
16. along lines deemed appropriate either out of his own initiative and/or the inputs of the competent Central functions.
17. suggests what course of action would be advisable to undertake or intensify at Group level, also in order to activate eventual synergies

18. Analysis
19. Submitted by
20. of his Area, in order to insure their reciprocal coherence the guidelines issued by the competent cultural function
21. is vigilant so
22. coherent
23. objectives approved when the budget was negotiated
24. My note: The "specific information" never materialized
25. interprets the philosophies and strategies adopted by the Group, in the Affiliates Board of Directors of which he is a member
26. with reference to the activities of the USA Bank units only, the Regional Mgr. of N & C America Chairs:
27. Sending limits
28. he deems advisable to express a favorable opinion thereon
29. The Regional
30. The resolution will be adopted by the Regional
31. concurrence
32. the Regional Mgr. will also resolve on:
33. ranks,
34. To be submitted
35. change in the deployment
36. Units
37. It is also up to the Regional Manager to submit to the competent Central Dept. the relevant proposals concerning any action relative to BNL personal of the "Italy payroll" deployed with the Affiliates active in the Area
38. Those expenses while objectively cannot be allocated to other units will be born by the N.Y. Branch
- 38.a) takes on the responsibility of
39. Representative

40. their
41. Hierarchically answerable
42. Regional
43. among others
44. also
45. risks and generally follows management activities
46. Submits to the Regional Management the annual budget of the Branch and those of the Units who report to the N.Y. Branch, verifying their coherence in relation to the decisions adopted and the targets given by the Regional Manager
47. outside service suppliers
48. as well as career-affecting decisions including transfers of N.Y. Branch personal as well as the reporting Units'
49. and availing itself of the Branch's facilities, operates the Auditing Dept. who is answerable to the Central Auditing Dept. of the Rome Headquarters
 Upon instructions of the Central Auditing Dept. or the regional Mgr. or the NY Branch Mgr. it carries on inspections and occasional and periodic verifications either in the N.Y> Branch or the Units reporting thereto.
50. will conduct inspections and verification also at BNL Group Affiliates established in the Area, unless prevented by third party rights or local laws
51. concurrence
52. The Expense Committee is comprised of the Branch Mgr. and the Heads of the Commercial Financial and Administrative Dept.'s (or, in the of their absence or incapacitation, by their Alternates) and the resolutions will be adopted by the Branch Mgr. (or his Alternate) with the concurrence of at least TWO other members (or their alternates)
53. and are to be articulated in the relative operating manuals
54. however, among other functions, duties and responsibilities, The Commerce Dept.
 -coordinates the allocation among the various operating units of "tranches" of credit lines to customers assigned by the competent Central function, when possible abiding by eventual preferences expressed by the customers

The Financial Dept.
 -coordinates the allocation among the various operating units

of "tranches" of credit lines to Correspondent Banks assigned by the Competent Central Function, taking into account the operating capabilities of each unit.

-keeps assiduous contacts with the competent central function who is entrusted with the task of addressing the Units, in compliance with the Regulation of Central Functions presently in force.

The Administrative Dept.

-It is hierarchically answerable (like the other Dept.) to the Branch Mgr., liaises constantly and directly with the competent Central functions

-issues, in agreement with the competent Central functions, procedural regulation, and related operating manual, for all the offices of all the units that report to the Branch. In addition and in order to under the texts uniform and make possible economies of scale it generates all forms for all the offices of the Branch and the units reporting thereto.

-it handles, in agreement with the competent central functions; its own recording procedures as well as those of the other reporting Bank units and the compilation of periodic statements or reports along homogeneous lines that take into account also the particular procedure required by Fiscal (Tax) & Central Authority both American and Italian

-it assures through the EDP Center, the most effective management of the information and data procuring systems of the Branch as well as the reporting units'

55. reporting
56. of the reporting Branches are hierarchically answerable
57. Their
58. reporting
59. "Libio Fidi" i.e. the record of credit facilities approved within their lending limits

The so called 10/25/88 Pedde directive to Sardelli is at best an exercise in diplomacy: on a neutral level it supports that Pedde, like in the case of the Luchaire affair for which the Venice Court sentenced him to a four year jail term, never had the time to read.

Board Resolution 10/20/88: at worst it tries to subvert from the very beginning the dictates of the a/m Resolution since, contrary to the prescriptions of the latter, which authorizes the NY Branch Mgr. and its Dept. Heads to directly liaise with the H.G., Pedde's directive wants Sardelli to be the only link between the units of the Area and H.O. Depts. The underlying philosophy

seems to be "Even if the structure were defective it is up to the men who manage it to adopt the necessary rectifications, the corrections and the modifications". Like taking the law in your hands.

Aside from the pitiful attempt made by the translator to rewrite it, Pedde's directive, among many other questionable attempts at twisting the Board Resolution, -Totally disregards the contents of Sardelli's letter December 27, 1987, by which the latter advised that because of the situation he found in the Area on his arrival July 18, 1987, the man whom they (Pedde and the H.O.) were sending as the Mgr. of the NY Branch (an incompetent non-English speaking person) Sardelli did not anticipate being able to implement Board Resolution 1/20/88 in less than twelve months; if the MD did not like the idea he could have replaced Sardelli anytime in Jan. 88 or thereabouts.

-as any perfunctory examination will disclose, the three page "directive" is on mimeograph sent to all Regional Mgrs; the one sent to Sardelli differs from the others only as to the date, the name of the addressee, the first sentence and the last six words. Even the signature is not an original.

It thus ignores that by now Sardelli is the only Regional Mgr. (out of three) in the whole bank whose staff consists of two people (himself and an executive secretary) and whose structure does not include any longer the operating units which are now under the direction of the NY Branch Mgr.

-it also ignores that, because of the anomalous structure of the N.Y. Regional Management, as compared to all other Regional Mgrts. where the Regional Mgr. is also the Mgr. of the Mother (Head) Branch, the 10/20/88 Board Resolution places the complication of the "Operative Internal Regulations" not on Sardelli's shoulder's, where Pedde would like it to be, but on those of the N.Y. (Head) Branch throughout its Administrative Division and the Central (Rome) Administrative Dept. with whom the former is entitled to liaise directly in accordance with the contents of the Board Resol.

-it ignores that in March 88, Sardelli was told by D'Addosio (one of the present MD's) that there were no "H.O. Internal Regulations" that anyone could report to for inspiration. D'Addosio's suggestion was "wait and hope" which in Italian may signify "They may never come".

-it ignores that as yet (June 88) there was no "H.O. Internal Regulation" for the Central Financial Dept. since as its then Head (Mr. Zanetti) put it, "my problem is not only that I do not understand Pedde when he wants me to produce papers that I consider irrelevant. My problem is that I have not found at BNL one man who knows how to make money in a real "Dealing Room" (on that occasion Zanetti also told Sardelli very bluntly that he could not lend him a man to help organize the Financial Dept. in N.Y. simply because he did not have such a man).

Doc. D**BOARD OF DIRECTORS, MANAGEMENT, AUDITORS AND EMPLOYEES****BANCA NAZIONALE DEL LAVORO-Rome, Italy (THE GUARANTOR)**

The Board of Directors is responsible for the administration of the Guarantor. The Statutes of the Guarantor state that the Board of Directors shall consist of 20 members. Directors may hold office for up to four years and are eligible for re-appointment.

Management is also exercised by the Executive Committee, the Chairman and the Managing Director pursuant to powers and authority contained in the Statutes of the Guarantor.

As at 31st March, 1989, the Board of Directors, Management and Auditors are as follows:—

Board of Directors

Nerio Nesi*
Salvatore Paolucci*
Giacomo Pedde*
Orazio Buccisano
Giorgio Alfredo Cassinelli*
Gaetano De Campora
Francesco Del Monte
Angelo Detragiache
Antonio Longo*
Giorgio Masiero
Giacinto Militello*
Flavio Orlandi
Aldo Palmeri
Giuseppe Pasqua*
Antonio Pedone
Antonio Porteri*
Ruggero Ravenna
Augusto Schianchi
Paolo Sciumè
Ferdinando Truzzi

Chairman**Deputy Chairman****Managing Director**

Appointed by: Ministry of Foreign Trade

Appointed by: Ministry of Industry and Trade

Appointed by: Shareholders Meeting

Appointed by: Ministry of Treasury

Appointed by: Ministry of Employment and Social Security

Representing Life Assurance Corporate Public Body (INA)

Appointed by: Shareholders Meeting

Representing Social Security Agency (INPS)

Representing State Insurance Agency (INAIL)

Appointed by: Ministry of Employment and Social Security

Appointed by: Ministry of Treasury

Appointed by: Ministry of Treasury

Appointed by: Ministry of Agriculture

Appointed by: Ministry of Employment and Social Security

Appointed by: Shareholders Meeting

Appointed by: Shareholders Meeting

Appointed by: Shareholders Meeting

*Member of the Executive Committee

Management

Giacomo Pedde

Pier Domenico Gallo
Cassio Morselli

Ferruccio Airoidi
Augusto Calzolari
Umberto D'Addosio
Pietro Giribaldi
Giovanni Mazzarotto
Paolo Mazzarotto

Luigi Sardelli

Gianmario Feletti
Mauro Frattini
Giovanni Garone
Salvatore Lupo
Franco Medugno
Alberto Mucci
Roberto Pernice
Paolo Federico Ronza
Alberto Ruocco
Carlo Salvatori

*Managing Director and
Chief General Manager*

Deputy Chief General Managers

Central Managers

Joint Central Managers

Statutory Board of Auditors

The Statutes of the Guarantor provide that the Statutory Board of Auditors, which are appointed by decree of the Ministry of the Italian Treasury, shall consist of five members and three substitutes. At present, the Statutory Board of Auditors comprises:—

Domenico Amodeo	Chairman
Giovanni Billia	Auditors
Sergio Maggi	
Diego Siclari	
Francesco Tenore	

Vittorio Gaetani, Italo Maspero and Paolo Sacco are available as substitutes.

External Auditors

Under Italian law, companies whose shares are listed on a stock exchange in Italy are required to have their annual accounts audited by a firm of independent auditors, in addition to the checks carried out by the statutory auditors. Independent auditors are appointed in a general meeting for a term of three years and may be re-appointed for two additional terms. The Guarantor's independent auditors are Price Waterhouse and Italaudit S.p.A.

Employees

As at 31st December, 1988, the BNL Group had 26,766 employees.

DOC. E

JAN 31 1974



HARRY W. ALBRIGHT, JR.
SUPERINTENDENT OF BANKS

STATE OF NEW YORK
BANKING DEPARTMENT
TWO WORLD TRADE CENTER
NEW YORK, N.Y. 10047

January 28, 1974

Mr. Luigi Sardelli
Co-Manager
Banca Nazionale Del Lavoro
25 West 51st Street
New York, New York 10019

Dear Luigi,

Please excuse the delay in responding to your letter of January 11, 1974.

I too have mixed emotions about your departure from our New York banking scene. On the one hand, I am sorry that a good friend and a first-class representative of Banca Nazionale Del Lavoro is leaving, and on the other hand, I am delighted that you are no doubt receiving a promotion and assuming new challenges and important responsibilities in Genoa.

Your thoughts regarding the future, human values and interdependence among Nations were most eloquent, and are completely endorsed by me.

Thank you very much for your kind invitation to visit with you and Mrs. Sardelli in Italy. Should the circumstances arise, I will certainly call upon you. Conversely, please do not hesitate to contact us when you are in New York. By the way, as of this morning, we are tenants of the World Trade Center's South Tower (31st and 32nd floors). That is one of the reasons for my tardiness in replying to your letter.

We in the Banking Department will miss your smiling countenance. I hope that you and your family will have good health, happiness and success this New Year and in the many years to come.

Sincerely,

Bernard Cassano
Deputy Superintendent
and Chief Examiner

Central Intelligence Agency



Washington, D.C. 20505

DIRECTORATE OF INTELLIGENCE

6 November 1989

Iraq-Italy: Repercussions of the BNL-Atlanta Scandal

Summary

The revelation that a US branch of an Italian bank, Banca Nazionale del Lavoro (BNL), granted more than \$3 billion in unauthorized letters of credit to Iraq has had wide-ranging repercussions for Iraq and Italy. For Iraq, public disclosure that it used some of the credits to acquire military-related technology has impeded procurement efforts, and the suspension of BNL credits has slowed civilian reconstruction and development projects. For Italy, the BNL scandal has cast at least a temporary shadow on Prime Minister Andreotti's new government, raised questions about public-sector enterprises, and reopened the issue of privatization.

The affair is unlikely to have a major impact on Iraqi military procurement efforts, but cash-short Baghdad probably will have to postpone plans for some civilian projects. The loss of BNL financing and, more important, any reduction in US agricultural credit guarantees because of negative publicity about the scandal probably would damage US-Iraqi commercial ties. For Iraq's part, however, the strain in political relations is likely to be short-lived, particularly if Baghdad believes US credit guarantees will be forthcoming. Iraq is eager to maintain good ties to the United States, an attitude intensified by improved relations between Iran and the USSR.

This memorandum was prepared by []
Near Eastern and South Asian Analysis, and []
Analysis.

[] Office of
[] Office of European

BNL-Atlanta Financing for Iraq

The Atlanta, Georgia branch of the state-owned Banca Nazionale del Lavoro (BNL)—Italy's largest bank—extended \$3.2 billion in 2,500 unauthorized letters of credit for Iraq between February 1988 and July 1989. US and Italian authorities have been investigating the scandal since July for violations of banking regulations and tax and customs laws.

Fragmentary reporting indicates BNL-Atlanta disbursed \$1.85 billion of the \$3.2 billion, including at least \$800 million in letters of credit guaranteed by the US Commodity Credit Corporation (CCC). BNL headquarters agreed to release another \$550 million in early October, [] after Iraq threatened to suspend payment to Italian firms if the bank failed to honor its commitments.

BNL-Atlanta's unusual activities included:

- Exceeding the branch's allowable debt of \$500,000 per customer.
- Charging Baghdad an average 0.2-percent commission instead of the usual 15 percent for a poor credit risk.
- Financing the letters of credit by borrowing from other banks for 90 to 180 days but allowing Iraq up to five years to repay.

BNL's North American headquarters in New York and the bank's directors in Rome publicly denied knowing about the letters of credit, although a BNL official in Chicago claims he notified New York and Rome several times about the unusual activity in Atlanta, according to press reports. Press reports also indicate a BNL branch in Udine, Italy referred customers exporting to Iraq to the Atlanta branch. Iraqi officials have generally denied knowledge of any wrongdoing, arguing that Baghdad is a victim in the scandal.

Iraq used some BNL credits—at least \$600 million, according to British press—to buy military and dual-use technology through various front companies and legitimate firms in Western Europe. []

British press says that BNL-Atlanta also financed Iraqi military purchases from Kintex, the Bulgarian armament company.]

Impact on Iraq

The suspension of credits from BNL—by far Baghdad's largest source of credits—and disclosure in the British press that Iraq used the credits to acquire military-related technology has almost certainly complicated Baghdad's procurement efforts. We believe that increased Western scrutiny of these activities has at least temporarily impaired Baghdad's ability to acquire such technology. Press coverage and London's

opposition to Iraq's control of a company possessing sensitive technology, for example, led SRC Composites to divest its advanced composites factory, according to press reports. Some other firms in the networks have gone out of business.

The loss of BNL financing has almost certainly slowed civilian reconstruction and development in Iraq. Many US and West European firms supplying goods and services to projects in Iraq were being paid through BNL.

Many of these firms have probably suspended business with Iraq until alternate methods of payment--cash, other loans, or barter--are arranged. Financially strapped Baghdad, however, is unable to meet demands by some of these firms for payment in cash, especially for expensive purchases. Reporting indicates Iraq has nearly exhausted available credit lines and barter opportunities.

Iraqi Procurement Networks

Baghdad has created complex procurement networks of holding companies in Western Europe to acquire technology for its chemical, biological, nuclear, and ballistic missile development programs. According to British press,

one such network begins in Baghdad with the Al-Arabi Trading Company, which controls the London-based Technology and Development Group, Ltd. (TDG) and another UK firm, TMG Engineering. TDG and its Brussels-based partner, Space Research Corporation, own the Ulster-registered firm Canira Technical Corporation, Ltd. Canira in March established SRC Composites, which acquired access to advanced composite and carbon fiber technology used in aircraft and missile production. In 1987 TMG gained control of Matrix-Churchill, Ltd., the United Kingdom's leading producer of computer-controlled machine tools that can be used in the production of sophisticated armaments.

We believe Iraqi intelligence is directly involved in the activities of many holding companies funnelling technology to Iraq.

]

Effect on US-Iraqi Relations

For Iraq, any reduction in bilateral commercial ties because of the BNL scandal takes on political significance, which Baghdad--ever paranoid--tends to exaggerate. The fallout from the scandal has strained US-Iraqi relations. Baghdad is seriously concerned that the affair is adversely affecting its economic ties to the United States--the backbone of the bilateral relationship. Iraq is particularly upset that the CCC offered significantly less credit guarantees for FY1990 than Baghdad requested because of negative publicity about the scandal. Iraq fears that any large reduction in CCC credit guarantees would make it more costly and difficult to import agricultural goods and damage its international credit rating.

Several US firms have already been affected by the scandal. press reporting indicate BNL was financing at least \$1 billion in sales to Iraq by US firms, including agricultural goods, an automobile plant, an ethylene plant, industrial

machinery, construction materials, and irrigation equipment. Some US suppliers are worried that they will not receive payment on letters of credit that they have not yet submitted to BNL-Atlanta. Many US firms are trying to arrange other means of payment to avoid losing lucrative contracts.

The scandal has contributed to Iraq's perception that the United States is trying to hamstring Baghdad's efforts to promote better political ties. A senior Iraqi official told his US counterpart in early October that Baghdad was unhappy that Washington's decision on CCC credits is linked to the scandal, with which he maintained Iraq had no part. The official indicated this was not a sign that the United States wants to improve relations.

Baghdad is eager to resolve the BNL crisis because harmonious bilateral relations are important to its strategic planning. Iraq believes that the Iranians have not abandoned plans to oust the regime in Baghdad and wants to assure that the superpowers would back Iraq or at least remain neutral during any future hostilities. The Iraqis seek to prevent Washington from favoring Iran so much that Baghdad's interests are threatened. In Iraq's view, the superpowers regard Iran to be of greater importance in the region, and Baghdad is therefore trying to enhance Iraq's political and economic importance to the United States.

Impact on Italy

The BNL affair--in combination with other scandals--has cast a shadow on Prime Minister Andreotti's three-month-old government. Partly to divert attention from the BNL affair, the Socialists and some Christian Democrats are playing up other scandals, including renewed allegations that the Italian military covered up evidence concerning the 1980 crash of an Italian airliner north of Sicily. None of the governing political parties or their factions, however, appears now to believe it can strengthen its relative positions by exploiting the issue.

The scandal has also spotlighted the cost of Italy's longstanding and entrenched spoils system in the state-owned enterprises. Traditionally, appointments to key positions in public-sector companies have been allocated as a measure of party and even factional influence. Under this system, the president and several directors of BNL are members of the Italian Socialist Party, while the executive director usually comes from the Christian Democratic Party. Several backbenchers in parliament quickly denounced the spoils system for not allowing the most competent people to fill public-sector jobs. The attacks, however, have been discounted as political sour grapes, and the system shows no signs of collapse.

In light of the BNL affair, Treasury Minister Carli has renewed his efforts--against admittedly long odds--to enlist support for privatizing state-owned banks and other public-sector corporations. Carli believes the breakdown in supervision at BNL is all too typical of the quality of Italian public-sector banking. In his opinion, privatization would force Italian banks to narrow the current 6-percentage-point spread between interest paid to depositors and that charged to borrowers--a prerequisite if Italian banks are to do well after the EC dismantles capital controls next year.

The discovery of BNL's exposure in Iraq forced the bank to seek funds to boost its capital, which the Bank of Italy already considered too low. If Iraq defaulted, BNL technically would have been bankrupt because the amount of its loans to Iraq exceeded

the bank's capital. In that event, the Bank of Italy and the Treasury Ministry would have been compelled to bail out the bank. Rome was stymied in finding a Socialist-controlled institution to recapitalize the bank by itself, and the government in October finally cobbled together a \$1.7 billion package from the Treasury, a state-owned insurance company, and the Social Security Fund, thus maintaining a Socialist majority on the BNL board of directors.

We believe the revelations of BNL's dealings with Iraq—along with other recent scandals—stand in counterpoint to growing Italian self-confidence on the international stage in recent years. After more than three decades of international diffidence, we believe Italian leaders have been pursuing a diplomatic profile more commensurate with their country's international economic role. Italians have felt particular pride because:

- Italian troops in the Beirut peacekeeping forces had fulfilled their mission as defined by Rome.
- The Italian decision to accept US cruise missiles played a decisive role in swinging West Germany behind deployment.
- Their country's GDP had surpassed that of the United Kingdom and possibly France.

In the opinion of almost all Italian press commentators, the BNL affair had a negative impact on Italy's credibility throughout the West. We believe, however, that the setback to Rome's international standing has been substantially less than that portrayed in the Italian press, and we expect the scandal will gradually fade from public view within Italy and will have little lasting impact on the country's perception of its international role.

Outlook

We believe Iraq will work hard to establish new military procurement networks to replace those disclosed by the press and by the US and Italian investigations as part of the fallout from the BNL affair. Baghdad highly values these networks to obtain technology that might otherwise be denied to it if the end user or purpose were revealed. Because of renewed Iraqi efforts and the likely existence of other networks that remain undetected, we do not believe that Iraq's covert procurement efforts will be set back seriously.

The drying up of this major financial source—at least for the next several years—will probably force Iraq to scale back ambitious civilian reconstruction and development plans. Baghdad probably formulated some economic plans under the assumption that BNL-Atlanta would continue to issue letters of credit on its behalf. Iraq will be unable, however, to replace BNL financing any time soon. Most commercial banks and foreign governments are likely to remain unwilling to grant or guarantee significant new credits to Baghdad until it repays more of its \$45 billion non-Arab foreign debt—a low priority to Iraq. Furthermore, Iraq has overextended its barter commitments and will probably be reluctant to engage in many more such deals.

The BNL affair will probably have only a minimal impact on Italian-Iraqi relations. The scandal is unlikely to cause more than short-term political friction unless BNL fails to disburse the remaining letters of credit. Even then, Baghdad would probably employ economic--not political--means to punish Rome. Continued Iraqi threats to suspend payment to Italian firms if Rome fails to release the promised BNL credits will almost certainly be effective against the Italians, who have already agreed to release some of the undisbursed credits and have backed down in the past in the face of threats from other countries.

We have detected no sign of flagging Italian interest in Iraq, although we expect that Italian banks will scrutinize export financing and other credits for Baghdad more carefully. The Italians are maintaining existing levels of oil imports from Iraq while still trying to boost exports. Italian-Iraqi relations will continue to be strained, however, by the dispute over the delivery of Italian warships to Iraq, which is unlikely to be resolved any time soon because of Iraqi demands for additional financing for the ships and Iranian threats of retaliation against Italy if the ships are delivered.

Implications for the United States

The BNL scandal is likely to lead to a reduction in US-Iraqi commercial relations, particularly if CCC credit guarantees are decreased. Any loss of CCC credits probably would reduce Iraq's food imports from the United States because Baghdad prefers to buy on credit. Iraq probably would turn to Australia and EC countries--which lost sales when the United States became Iraq's top Western agricultural supplier in 1983--as well as traditional suppliers Turkey and Brazil. Many of these suppliers are already trying to profit from the BNL scandal by boosting agricultural sales to Iraq at US expense. Furthermore, the bank's continued refusal to disburse remaining credits probably would prevent some US firms from implementing contracts with Iraq.

The strain in US-Iraqi political relations caused by the BNL scandal will probably be short-lived, particularly if Baghdad believes additional US credits will be forthcoming after the dust of the investigation settles. Iraq is eager to maintain good ties to the United States, an attitude intensified by improved relations between Iran and the USSR that make Baghdad uneasy. Iraq probably also believes that strained political relations would complicate its efforts to acquire US technology and credits in the future. We anticipate that Iraq will work hard to overcome the current frictions by offering commercial opportunities to the United States and lobbying US business and government officials.

Although the BNL affair embarrassed the Italian Government and banking sector, we do not believe it will not have a major impact on Italian relations with the United States. Rome appears satisfied to date with the cooperation of the US investigating agencies and appreciates the low-key manner in which Washington has reacted. BNL will probably close its Atlanta office and may suffer a loss of business in financing exports for US companies.

JUDGE MARVIN SHOOB'S COMMENTS ON THE BNL CASE

October 5, 1992 -- Order Granting Christopher Drogoul's Motion to Withdraw His Guilty Plea

August 24, 1993 -- Sentencing Order for Five BNL/Atlanta Employees (Amedeo DeCarolis, Therese Barden, Leigh Ann New, Paul Von Wedel, Thomas Fiebelkorn)

October 5, 1992

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA, :
 :
Plaintiff, : CRIMINAL ACTION
v. : 1:91-cr-078-MHS
CHRISTOPHER P. DROGOUL, :
Defendant :

ORDER

This case involves billions of dollars raised and loaned in international finance. It involves allegations of an international bank fraud that may have helped pay for Iraq's military build-up. But the more important issue before this Court involves a man's liberty and serious questions about the integrity of our justice system and the almost unreviewable powers of prosecutorial discretion. The Court's judgment and decisions throughout the hearings and motions before it have been guided by its belief that there is a moral component to the Court's involvement in this case -- the responsibility to do the right thing.

This order will set forth the reasons the Court will grant the Government's motion to recuse and why the Court, on October 1, 1992, orally granted defendant Christopher P. Drogoul's renewed motion to withdraw his guilty plea.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

UNITED STATES OF AMERICA,	:	
Plaintiff,	:	CRIMINAL ACTION
v.	:	1:91-cr-078-MES
CHRISTOPHER P. DROGOUL,	:	
Defendant	:	

ORDER

This case involves billions of dollars raised and loaned in international finance. It involves allegations of an international bank fraud that may have helped pay for Iraq's military build-up. But the more important issue before this Court involves a man's liberty and serious questions about the integrity of our justice system and the almost unreviewable powers of prosecutorial discretion. The Court's judgment and decisions throughout the hearings and motions before it have been guided by its belief that there is a moral component to the Court's involvement in this case -- the responsibility to do the right thing.

This order will set forth the reasons the Court will grant the Government's motion to recuse and why the Court, on October 1, 1992, orally granted defendant Christopher P. Drogoul's renewed motion to withdraw his guilty plea.

The Government has said that this hearing was highly unusual, more of a mini-trial than a sentencing hearing. The Court agrees that this hearing was unusual, but this has been an unusual case. The Government initially sought the "mini-trial;" at one point before the plea bargain, prosecutors requested three weeks to present evidence rebutting defendant's anticipated statement at the plea hearing. Following the plea bargain, which was initiated by the Government, the Government sought three days to present witnesses. During the sentencing hearing, the Government proceeded to present detailed evidence as to how the money flowed from one account to another, how much money defendant had promised to Iraq and other nations, and how defendant and alleged co-conspirators covered up these transactions.

The Court has never intended to "put the Government on trial," as suggested by the prosecution but only to determine what transpired and Mr. Drogoul's involvement. The Court also points out that a sentencing hearing is not a trial, and the rules of evidence do not apply. Courts are permitted to rely on hearsay and even on the testimony of confidential informants without knowing their identity. In a sense, evidence at a sentencing hearing is not subject to the same testing as that put on at a trial; the Court simply must satisfy itself that the information is "sufficiently

reliable."

II. PLEA WITHDRAWAL

On September 21, 1992, after one week of evidence in the hearing, the Court denied defendant's motion to withdraw his plea of guilty. The Court held that defendant had not shown that there was a "fair and just reason" to permit the withdrawal of his guilty plea. September 21, 1992, Order. However, after daily revelations undermining the Government's case, the prosecution announced on October 1 that it no longer opposed defendant's motion to withdraw his guilty plea. Defendant renewed his motion to withdraw the plea.

In the two weeks of testimony following defendant's first attempt to withdraw his plea, defendant presented credible evidence suggesting that the Government had not fully investigated whether defendant's superiors in the bank approved of and were aware of his activities. The Government also furnished to the Court classified documents from the Central Intelligence Agency ("CIA") suggesting that ENL-Rome was aware of Mr. Drogoul's activities and was not a victim of the alleged fraud. Furthermore, defendant named several ENL superiors who knew of his activities and described their involvement. Defendant did not resolve the

questions about why he, a clearly intelligent person represented by counsel, entered his plea of guilty on June 2, 1992, and during a three-hour hearing before this Court testified only that his superiors should have known. However, other evidence presented at the sentencing hearing as outlined below raised such serious questions that the Court concluded that these issues could not appropriately be taken up on a motion for downward departure but should be heard at trial. In light of these conclusions and the Government's and defendant's request for a trial, the Court granted the motion to withdraw the plea.

III. RECUSAL

The Government has filed a written motion requesting recusal, and the Court will grant the motion. A judge should disqualify himself from "any proceeding in which his impartiality might reasonably be questioned." 28 U.S.C. § 455(a). Although the Court believes that it would be able to hear the evidence with an open mind, the Government's concerns that it would not act impartially counsel against this Court remaining on the case. From the evidence presented during the hearing, this Court has reached and voiced certain preliminary conclusions and concerns about this case and the Government's conduct in investigating and prosecuting defendant that may, from the prosecution's

viewpoint, interfere with this Court's ability to hear evidence with an open and impartial mind. Furthermore, while some of the concerns raised by this Court may have legitimate explanations, the sheer number of unusual circumstances led this Court to reach these tentative conclusions. Accordingly, the Court will set forth some of the tentative conclusions it has reached in hearing this matter and its reasoning in arriving at those conclusions. Set forth below are the bases for the granting of the motions to withdraw the plea and to recuse.

A. The knowledge of officials at ENL-Rome

The Court concludes that officials at ENL-Rome were aware of and approved Mr. Drogoul's activities. At the very least, ENL-Rome chose to ignore what were obvious signs of Mr. Drogoul's extraordinary relationship with Iraq and his unusual lending practices. In support of this conclusion, the Court notes:

- 1) Classified reports from the CIA conclude, in part, that a number of high-level ENL-Rome officials supported Mr. Drogoul's activities.¹

¹ The Court will not reveal the contents of these documents because they remain classified. However, as the Court will discuss below, the Court is unable to see how they relate to national security and why they should remain secret from defense counsel and the public.

2) A senior BNL official, Mr. Monaco, referred an Italian company seeking financing for a major construction project in Iraq to BNL-Atlanta.

3) The former head of BNL's North American operations, Dr. Luigi Sardelli, provided credible testimony showing that senior officials in Rome approved or had knowledge of Mr. Drogoul's activities.

- * Sardelli's letter criticizing defendant's activities was never delivered by the auditor to officials in Rome.

- * Instead of auditing or investigating BNL-Atlanta, BNL-Rome officials elected to investigate Dr. Sardelli who appears to be the only "straight shooter" in the organization.

- * BNL-Rome was an extremely political organization operating more as an agency of the Italian government than as a bank.

- * Dr. Sardelli voiced his frustration with BNL-Rome in testifying that the BNL-Rome officials sent to the United States to investigate the Atlanta branch after the raid were the officials who should have been investigated.

- * Dr. Sardelli testified that he believes officials at BNL-Rome knew of Mr. Drogoul's activities.

4) There is evidence that documents may have been shredded by BNL officials shortly after the raid and that some files and documents are missing.

5) BNL branches in Germany, England and Canada were aware of BNL-Atlanta's substantial financing of Iraqi purchases and projects.

6) The Government's witnesses from Morgan Guaranty and the Bank of New York and confidential CIA reports concluded that it was well-known in international banking circles that BNL-Atlanta provided substantial financing for Iraq's purchase of agricultural, military and non-military products.

7) The Italian parliament's extensive report on the "BNL scandal" concludes that Mr. Drogoul was not a "lone wolf" and that BNL-Rome's failure to adequately supervise the Atlanta branch permitted the continued illegal activity.

8) Mr. Drogoul's co-defendant Paul Von Wedel and Jean Ivey, a BNL-Atlanta employee who was granted immunity, testified that they believed that officials in Rome were aware of BNL-Atlanta's involvement with Iraq -- testimony the Court found credible. Mr. Von Wedel also testified that Mr. Drogoul had regular access to Dr. Giacomo Pedde, the director general of BNL, that Mr. Drogoul met with Mr. Monaco, a senior BNL official, in Baghdad, and that Mr. Florio, another senior BNL official, verbally approved early CCC loans to Iraq.

9) Mr. Drogoul's first attorney, Theodore Lackland, testified credibly that several individuals involved with

the allegedly fraudulent transactions told him that officials in Rome were aware of the transaction and in fact had in their possession one of the allegedly fraudulent loan agreements (MTL-4).

10) As the "victim" in this matter, BNL-Rome may be able to recover \$1-2 billion in unpaid CCC-backed loans to the Iraqis.

11) When notified of the August 4, 1990, raid, Mr. Drogoul returned immediately to the United States, leaving his family in France. He met with BNL officials in New York, was furnished an attorney who was to be paid by the bank, and continued as manager of the Atlanta branch for a week.

12) Mr. Drogoul's chief mentor at BNL in 1986-87 retired from BNL in 1987 and became a consultant at Entrade, a defendant in this case and a participant in the scheme.

8. The Investigation and Prosecution of Mr. Drogoul

The Court has also come to a number of preliminary conclusions about the Government's investigation of this case. Primarily, the Court concludes that prosecutors failed to investigate seriously whether BNL-Rome knew of defendant Drogoul's activities. This failure, coupled with or provoked by the involvement of other departments of the United States Government, indicates an effort to absolve

BNL-Rome of complicity in the Atlanta branch loans to Iraq.
The Court notes:

1) High-level officials in the Justice Department and the State Department met with the Italian ambassador to discuss the case. They appeared to help steer this case and gave support to BNL-Rome's position that it was a victim in this matter, assuring the ambassador that there "would be no surprises" for the Italians.

2) The Justice Department cancelled investigators' necessary trip to Italy and Turkey, where they intended to interview bank officials and others with knowledge of the transactions and scheme.

3) The Italian ambassador met with then-Attorney General Richard Thornburgh in Spring 1990 and told him that incriminating BNL-Rome in these transactions would be tantamount to "a slap in the face" of the Italians and would not be understood by the government of Italy.

4) The local prosecutor in this matter received one or more highly unusual and inappropriate telephone calls from the White House Office of Legal Counsel about this case, indicating the potential embarrassment level of the case.

5) The draft indictment was delayed by the Justice Department from early 1990 until the end of the Gulf War, February 1991 -- almost one year. Also, the plea bargain in which Mr. Drogoul agreed to plead guilty to only 60 counts

rather than 347 and initiated by an assistant prosecutor when the chief prosecutor was out of the city effectively silenced Mr. Drogoul who had announced his intention to make a full disclosure at the plea hearing.

6) The Government failed to produce and, apparently, made no effort to bring in any knowledgeable bank officials from Rome -- including Pedde, Guadagnini, Monaco, Florio -- for the sentencing hearing.

7) The Government failed to interview Wafai Dajani, despite evidence of his substantial involvement with the scheme, when he was in Atlanta and had agreed to meet with the prosecution. Mr. Dajani, who has ties to the King of Jordan, was not indicted.

8) Investigators were blocked by the Department of Agriculture from interviewing Iraqi officials who were in the United States negotiating CCC guaranties and later were prohibited from travelling to Iraq to interview potential co-conspirators and witnesses.

9) In early 1990, Atlanta prosecutors met with ENL-Rome lawyers, discussing the bank's position as a victim.

10) The American Ambassador to Italy notified the Secretary of State, Justice Department and others in the Fall 1989 that ENL's management was worried about the prosecution of the case and wanted it raised "to a political level" and to achieve "damage control."

11) Matrix Churchill, an Iraqi front company that was a clearinghouse for weapons procurement, was not indicted, although one of its officers was.

12) The Government has provided no credible explanation for its failure to indict Wafai Dajani, Matrix Churchill, Enka, and the Central Bank of Iraq.

C. Intelligence agencies

The Court also tentatively concluded during the course of the hearings that it is likely that the United States intelligence agencies were aware of ENL-Atlanta's relationship with Iraq. For example:

1) The Central Intelligence Agency did not respond to repeated requests from the Court concerning CIA knowledge of and involvement in the activities of the Atlanta branch. The agency's earlier response to the carefully crafted September 1, 1992, request from the Acting United States Attorney was evasive and concerned only knowledge of and involvement in unauthorized funding. The CIA continues to be uncooperative in attempts to discover information about its knowledge of or involvement in the funding of Iraq by ENL-Atlanta.

2) The raw intelligence reports indicate an awareness of extensive funding of Iraq by ENL-Atlanta.

3) There was no explanation as to the intelligence

community's awareness or lack of awareness of BNL-Atlanta's role in funding the Iraqi military build-up despite extensive cable traffic between Baghdad and Atlanta and several trips to Baghdad by Drogoul, including one to an Iraqi military fair attended by U.S. officials, such as the U.S. Ambassador.

D. Classified Information

The Court is also concerned that the local prosecutors lacked access to classified information which may have provided evidence on important elements of this case. The September 17, 1992, letter from the CIA to the local prosecutors shows that the CIA was not forthcoming with information it may have about the transactions at issue in this case -- the one area of classified information made available to the Court supports Mr. Drogoul's contention that his superiors approved of his activities. While the Court is well aware that there may be classified information in support of the Government's theory of this case, the Court is concerned that the prosecutors may have been blocked by agencies with political agendas from developing a full picture of this affair. This is particularly troubling in light of the fact that this information no longer seems relevant to national security and that, even if it is, there are procedures through which the CIA, and other agencies,

can make classified information available without revealing sources and methods.

IV. CONCLUSION

These are grave questions as to how the prosecutors made their decisions in this case -- both as to the nature of the charges and whom to prosecute. It is apparent that decisions were made at the top levels of the United States Justice Department, State Department, Agriculture Department and within the intelligence community to shape this case and that information may have been withheld from local prosecutors seeking to investigate the case or used to steer the prosecution. Furthermore, the Attorney General's exceptional refusal to grant the Congressional request for an independent counsel in itself raises concerns for the Court about the Government's impartiality in handling this case.

Accordingly, this Court again strongly recommends that an independent prosecutor be named to investigate this matter. The Court also recommends that the trial of Mr. Drogoul and the sentencing of the other defendants in this case be postponed to enable the United States Government to

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FILED IN CLERK'S OFFICE
U.S.D.C. Atlanta

AUG 24 1993

LUTHER J. TUCKER, JR.
By: *[Signature]*
Deputy Clerk

UNITED STATES OF AMERICA, :
Plaintiff, : CRIMINAL ACTION
v. : 1:91-cr-78-MHS

AMEDEO DeCAROLIS and :
THERESE MARCELLE BARDEN, :
Defendants :

UNITED STATES OF AMERICA, :
Plaintiff, : CRIMINAL ACTION
v. : 1:91-cr-88-MHS

LEIGH ANN NEW, :
Defendant :

UNITED STATES OF AMERICA, :
Plaintiff, : CRIMINAL ACTION
v. : 1:91-cr-89-MHS

PAUL VON WEDEL, :
Defendant :

UNITED STATES OF AMERICA, :
Plaintiff, : CRIMINAL ACTION
v. : 1:91-cr-126-MHS

THOMAS MOBLEY FIEBELKORN, :
Defendant :

ORDER

This matter is before the Court on the motions of each of the defendants for a downward departure from the sentencing guidelines. Earlier the Court considered and ruled on the various objections to the presentence reports and determined the appropriate offense level for each

defendant. Because of the absence of any prior criminal record, each defendant is in Criminal History Category I.

On August 19, 1993, the government in a sentencing memorandum advised the Court that it will move for a downward departure pursuant to § 5K1.1 of the Sentencing Guidelines for defendants Von Wedel, New, and DeCarolis, and reserved the decision whether to make a similar motion on behalf of defendants Fiebelkorn and Barden. The government also advised the Court that it does not oppose a downward departure for defendant Barden based on her extraordinary family situation.

While the government's new position makes this Court's task of imposing a fair and appropriate sentence far less burdensome, the extent of any downward departure is governed by considerations which go beyond defendants' cooperation or individual family circumstances.

The Court has reviewed considerable material, including National Security Agency reports; CIA documents prepared by the Directorate of Information and the Directorate of Operations; the book of 29, which includes 29 documents from these agencies determined by the government

to be discoverable by defense; the so-called black book, which consists of a series of State Department memoranda, National Security Council reports and memoranda, and Defense Intelligence Agency confidential and unclassified cables and information (the black book was not furnished to defense counsel as the information is substantially a duplicate of that furnished in the form of summaries and the book of 29); the several reports of the Italian Senate Commission involving this matter; the diary of P. Di Vito, an official at BNL; the CIA report of the investigation of its handling of BNL-related matters; the Senate Select Committee on Intelligence staff report on the involvement of United States intelligence agencies in the BNL affair; the summaries of classified information prepared by the government and furnished to defense counsel;¹ the testimony during the three-week sentencing hearing of defendant Christopher Drogoul; and the various exhibits introduced during that proceeding.

The preponderance of the evidence well supports this Court's conclusion that BNL-Rome was not a victim in this case. The evidence of CIA knowledge of the activities of BNL-Rome and BNL-Atlanta prior to the August 1989 raid of

¹ These summaries represent information from the NSA and CIA documents that the Court determined to be discoverable by the defense.

BNL-Atlanta is less persuasive but clearly troublesome. Either the CIA knew of the activities or the CIA failed to detect a five-year international deception and large-scale illegal financing of arms for Iraq through a small branch bank in Atlanta, Georgia. That determination is not necessary or appropriate for this Court. The Court does conclude that this is an appropriate case for a downward departure as to each defendant and will grant defendants' motions in part and will also grant the government's motions for a downward departure for substantial assistance and will consider defendant Barden's extraordinary family situation.

Background

This case arises out of a loan scheme stretching across continents and cultures, involving weapons merchants and multi-national banks, and implicating governments. In February 1991, Christopher Drogoul, the branch manager of BNL-Atlanta and the alleged mastermind of the scheme, was named, along with an Iraqi Bank, some foreign nationals, and several of the above-named defendants, in a 347-count indictment. The indictment centered on charges that Mr. Drogoul, the branch manager, defrauded BNL over the course of several years by engineering billions of dollars in unauthorized loans to Iraq and other nations. A number of

these loans were backed by the U.S. Department of Agriculture's Commodity Credit Corporation ("CCC").

Since the raid on BNL's Atlanta office in 1989, the scandal has sparked investigations across the Western world. Several committees of the United States Congress opened investigations into this matter, commissions of the Italian Parliament have explored the scandal, and aspects of this case were raised at a trial in England.

In September 1992, this Court presided over Mr. Drogoul's three-week sentencing hearing, which followed his guilty plea to sixty counts of the indictment. The Court heard detailed testimony on the loan scheme, international money markets, and the organization of BNL. The hearing ended during Mr. Drogoul's testimony when the Government announced that it did not oppose Drogoul's motion to withdraw his plea. The Court granted Drogoul's motion and later granted the Government's motion that the Court recuse itself. Mr. Drogoul is scheduled to go to trial before The Honorable G. Ernest Tidwell on September 8, 1993. These defendants, each of whom has pleaded guilty, have been awaiting a resolution of their involvement since the summer of 1989 -- four years.

Evidence and Standard

While the information and evidence reviewed by the Court are of uneven reliability and occasionally recount the hearsay statements of unknown informants, the Court has sifted through the information to make reliability findings and has considered only that information which it has found to contain "sufficient indicia of reliability to support its probable accuracy." U.S.S.G. § 6A1.3(a). In sentencing, the Court is permitted to rely on information that would not be admissible under the rules of evidence in a trial.

"Reliable hearsay evidence may be considered. Out-of-court declarations by an unidentified informant may be considered 'where there is good cause for the nondisclosure of his identity and there is sufficient corroboration by other means.'" Id., Policy Statement (quoting United States v. Fatico, 579 F.2d 707, 713 (2d Cir. 1978)).

The Court also notes that while no single piece of information or evidence standing on its own would support the Court's conclusions, when taken as a whole, even in light of the Government's conflicting information and argument, the information more than adequately and credibly supports the Court's conclusion that the defendant employees of BNL-Atlanta with their personal agendas and paltry rewards were pawns or bit players in a far larger and wider-

ranging sophisticated conspiracy that involved BNL-Rome and possibly large American and foreign corporations, and the governments of the United States, England, Italy, and Iraq.

It would be the height of hypocrisy to sentence these defendants as if this were a simple case of wrongdoing by a branch bank's employees, the sort of fraud contemplated by the sentencing guidelines. The Court's conclusions are supported by the following credible evidence:²

Evidence supporting Court's conclusion that BNL was aware of the activities of the Atlanta branch

1. BNL's relationship with Iraq

* BNL is one of the largest banks in Italy, and the bank has a longstanding relationship with Iraq.

* In the early 1980's, BNL financed a number of Italian exports to Iraq, and Iraq helped BNL during a

² At request of the Government agencies that produced this information, the Court, for security reasons, has not identified the specific document and source of the information from which it has drawn the facts set out below. The Court will provide the appropriate authority under seal at the request of the parties.

Also, defendant Von Wedel filed motion under the Classified Information Procedures Act ("CIPA") § 6(e)(2)(B) requesting a finding against the Government as to the truth of certain information in the classified materials because the Government has refused to produce the name of the sources. For the purposes of the downward departure, the Court is finding that this information is credible and accordingly DENIES AS MOOT defendant Von Wedel's motion.

liquidity crisis in the 1970's.

- * In late 1987, BNL-Rome helped finance a transaction for construction of a sewage plant in Iraq.

- * BNL was well-known, as were many Italian institutions, for its political spoils system. Members of the Italian parliament believed that U.S., Italian, and Iraqi officials received kickbacks from these deals. At the bank, commissions sometimes amounted to five percent of any deal. Other sources said that BNL officials received eight percent kickbacks.

2. BNL continued to do business with Iraq after the Iraqis were implicated in the scandal.

- * BNL-Rome honored several letters of credit issued by the Atlanta branch to companies for carbide cutting tools (often used in the manufacture of weapons), and BNL-Rome participated in the financing of an Iraqi petrochemical plant.

- * It remained Iraq's correspondent bank for Italy.

- * Intelligence sources stated that the BNL-Atlanta loan scheme was only a continuation of this long-term relationship.

3. Evidence of BNL's knowledge.

- * A branch of BNL in Udine, Italy referred an Italian

steel company to BNL-Atlanta for financing of an Iraqi project. An official from the Rome office of BNL had personally handled the matter, advising the company to use BNL-Atlanta, because that branch handled the bank's Iraqi business.

* In 1989, General Motors sought financing for an automobile deal with Iraq from BNL in Rome and Toronto. BNL-Atlanta extended credit for \$154 million to finance the transaction. The financed automobiles were sold at almost double the unit price. No explanation is available as to the \$75 million overcharge or who benefitted from it.

* In January 1990, a CIA employee concluded, based on general intelligence reports and publicly available material, that managers at BNL-Rome were involved in the scandal.

* A source from the legal department at the bank is quoted as saying that the transactions from BNL-Atlanta were authorized and directed by the Italian government and under instructions to make it appear that the transactions were controlled exclusively by BNL-Atlanta.

* Others speculated that the loans could not have been made without the tacit approval of the BNL Rome office, and Western bankers assumed that BNL's headquarters knew of the

loan scheme under way in Atlanta.³

* The BNL affair was considered by some sources to be part of an acknowledged cooperative strategy to support Iraq to ensure its victory in the Iran-Iraq war.

* Italian treasury secretary Carli reported to the Italian Senate Commission that three BNL-Rome employees may have known about the unauthorized landing in Atlanta. He also said that the information of BNL-Atlanta's activities should not have slipped through the bank's controls.

*Senior BNL officials were indicted and later convicted for their involvement in arms sales to Iran.

*The Italian embassy in Iraq was under suspicion of complicity in the BNL matter. The military attache committed suicide shortly after the raid, and he was rumored to be related to the scandal.

* An Italian parliamentary commission member stated that the investigation showed that Drogoul was "no lone wolf."

* The former head of BNL's North American operations, Dr. Luigi Sardelli, provided credible testimony that senior officials in Rome approved or had knowledge of Mr. Drogoul's activities.

* Sardelli's letter criticizing defendant's activities

³ A U.S. intelligence source found that this information confirmed press reports about BNL knowledge of the scandal.

was never delivered by the auditor to officials in Rome.

* Instead of auditing or investigating BNL-Atlanta, BNL-Rome officials elected to investigate Dr. Sardelli, who appears to this Court to be the only "straight shooter" in the organization.

* BNL-Rome was an extremely political organization, operating more as an agency of the Italian government than as a bank.

* Dr. Sardelli voiced his frustration with BNL-Rome in testifying that the BNL-Rome officials sent to the United States to investigate the Atlanta branch after the raid were the officials who should have been investigated.

* Co-defendant Paul Von Wedel and Jean Ivey, a BNL-Atlanta employee who was granted immunity, testified at Drogoul's hearing that they believed that officials in Rome were aware of BNL-Atlanta's involvement with Iraq -- testimony the Court found credible. Mr. Von Wedel also testified that Mr. Drogoul had regular access to Dr. Giacomo Pedde, the director general of BNL, that Mr. Drogoul met with Mr. Monaco, a senior BNL official, in Baghdad, and that Mr. Florio, another senior BNL official, orally approved early CCC loans to Iraq.

* Senior officials in Rome signed onto some of the loans made by BNL-Atlanta to Iraq, at the request of the Iraqis.

* From early in the investigation, BNL's lawyers and Italian officials urged that this case be raised to a political level.

Connections with the weapons network

Matrix-Churchill, an Iraqi front company and a major component of the arms procurement network, was a major participant in the BNL-Atlanta scheme. The CIA became aware that Matrix-Churchill was an Iraqi front company in 1987. No CIA reports indicated a relationship with BNL-Atlanta. Later, in a criminal proceeding in Great Britain, it was confirmed that two employees of Matrix-Churchill, one of whom was a director, Paul Henderson, were sources for British intelligence. The charges against the two men were dropped.

BNL-Atlanta was reported to have provided financing for major parts of the Iraqi procurement network, involving such companies as Space Research Corporation, Lear Fan, the Italian Endeco Barazuol, and Matrix-Churchill. BNL-Atlanta was reported to have helped finance large parts of the Condor II missile program, a joint program of Iraq, Egypt, and Argentina.

Awareness of U.S. Intelligence community

The CIA had non-public information from various sources⁴ about BNL and BNL-Atlanta lending activities, though not information that they were unauthorized.

Miscellaneous Government Information

In the fall of 1989, shortly after the raid on BNL-Atlanta, there were a number of contacts between the prosecutors in the case and the federal agencies involved in the decision to approve new agricultural loan guarantees for Iraq. The Atlanta prosecutors met directly with representatives of the Agriculture Department. There were at least two telephone calls from a junior attorney in the White House counsel's office to the chief prosecutor in this case; the calls sought information concerning the case in connection with the decision to approve loan guarantees. In the spring of 1990, the prosecutors and investigators were invited to Washington on at least one occasion to discuss the case with National Security Council staff members and other administration officials concerned about the approval of a second tranche of loan guarantees. Later, in September 1990, the chief prosecutor and chief investigator on the case were part of a Justice Department delegation which met

⁴ At the request of the Government intelligence agencies, the Court does not identify these sources.

with the Italian ambassador to the United States, who argued that BNL was the victim of a "terrible fraud."

During a November 1989 meeting of the National Advisory Deputies Committee, certain officials reported that Iraq had not been implicated and that the scandal appeared to involve internal BNL matters. Some high-level members of the Executive Branch wanted to continue the CCC program with Iraq, arguing it was essential to the U.S. relationship with Iraq.

- * Following the execution of the search warrant and the implication of the Iraqis, the United States Government, particularly its foreign policy branches, continued to push for granting agricultural credits to Iraq.

- * A generally reliable source believed that BNL-Atlanta could not have operated without the knowledge and acquiescence of the Federal Reserve Board, the Department of Agriculture, and the Commodity Credit Corporation.

- * After 1985, the Exim bank maintained a rotating, short-term \$200,000,000 facility for Iraq; it was the only listed country receiving Exim coverage. In January 1990, President Bush signed a waiver of sanctions to permit the Exim program for Iraq to continue through 1990. The United States also determined to release \$500 million in CCC guarantees with the possibility that another \$500 million would be released later.

* A U.S. Government memorandum prepared for the Executive Branch urged continued approval of the CCC program for Iraq, but acknowledged the improbability that Iraqi bank officials were unaware of kickbacks, deeply discounted interest rates, and other gross irregularities in the program. The U.S. Government was also aware that there were allegations of double and triple overpricing of some commodities, diversion and transshipment of commodities, and that CCC financing had been used for goods that did not originate in the United States.

Di Vito Diary

Attorney General Richard Thornburgh met with the Italian ambassador at a White House dinner. The ambassador pushed the idea that BNL was a victim and said incriminating BNL would be seen as an insult to Italy.

Overruns by BNL-Atlanta from 1986 were signaled to the North American office of BNL by the foreign credit office of the bank.

A number of new transactions, after the raid, between BNL-Rome and Iraq totalled more than \$228,000,000 as outlined in the July 31, 1990 confirmations.

Specific Findings

These factual findings support the Court's downward departure for the following reasons.

One, the Court finds that there is substantially reliable evidence that the alleged victim in this case, BNL-Rome, encouraged defendants to act as they did and superiors at the bank were in fact complicit in the scheme. The defendants saw their superior, Mr. Drogoul, rewarded for his acts, and could reasonably conclude that the bank approved of their acts or was deliberately ignorant of their activities.

Section 5K2.10 of the Sentencing Guidelines provides:

If the victim's wrongful conduct contributed significantly to provoking the offense behavior, the Court may reduce the sentence below the guideline range to reflect the nature and circumstance of the offense.

U.S.S.G. § 5K2.10. Downward departures relying on this section usually involve cases of a physical assault and the policy statement provides that the section is usually not "relevant in the context of non-violent offenses." *Id.* Neither the guideline nor the commentary, however, prohibits the section's application to a fraud case, and the fraud guideline clearly contemplates that the victim of the fraud was not complicit with the alleged fraud. *See* § 2F1.1.

The Court has considered the Government's argument that § 5K2.11 applies only to victim conduct that provoked a defendant's offenses. The Court finds, however, that it is within this Court's discretion to consider the victim's conduct throughout the course of this scheme in departing downward, and the Court concludes that this conduct permitted and encouraged the scheme. This conduct does not fit neatly in the category set out in § 5K2.11, but clearly this was not a pattern of conduct considered by the Commission in formulating the guidelines.

The evidence of BNL officials' knowledge of these loans and of the loans' role in international finance suggests that these defendants were merely functionaries in a scheme that benefitted the management of BNL and furthered the foreign policy of the United States and Italy. CCC loans to Iraq continued to be approved at the highest levels of the United States Government long after the scheme was uncovered, and BNL-Rome continued to do business with the Iraqis and other entities who had participated in the scheme "to defraud" the bank. The Di Vito diary lists in detail a total of \$ 228 million in new loans by BNL-Rome to Iraq following a July 26, 1990 conversation. (Di Vito diary, July 31, 1990.)

Two, departure is proper because the offense level is exaggerated by the dollar value involved in the scheme. There is little evidence that defendants' activities were the factual or proximate cause of the loss.⁵ As recounted above, defendants' roles were a minuscule part of the offense, and the offense level "bears little relation to" defendants' role in the offense. United States v. Restrepo, 936 F.2d 661 (2d Cir. 1991). Indeed, it is difficult to pinpoint the cause of the "loss" in this action. Until the Gulf War intervened, Iraq had continued to make payments on many of the loans extended. On other loans, however, Iraq had defaulted. The amount of loss caused by these defendants, then, "is complicated by considerations of multiple causation." United States v. Gregorio, 956 F.2d 341 (1st Cir. 1992) (permitting a downward departure for "multiple causation"); United States v. Schneider, 930 F.2d 555 (7th Cir. 1991); United States v. Kopp, 951 F.2d 521 (3d Cir. 1991). More important, the role these defendants was trivial in relation to the scope of this scheme. Also, as recounted above, the victims' conduct likely led to an increase in the amount loaned and the amount lost. This combination of causes takes the defendants outside the "heartland" of the fraud guideline and makes these cases

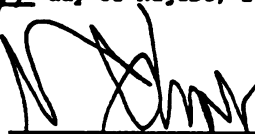
⁵ The Court notes that several of the defendants objected to the amount of the loss as stated in presentence reports. Others, inexplicably, did not.

appropriate for a downward departure.

Finally, the Court concludes that a downward departure is appropriate because there is simply no way the Sentencing Commission could have considered the vast range of conduct that is relevant to this case, dwarfing these individuals' involvement. Neither this Court nor the public is likely to know the underlying motivations and purposes of the scheme that touched the branch bank, but it is clear that this case and all its permutations are unlike any set of facts covered by the mathematical formulas of the sentencing guidelines. Accordingly, a downward departure in this case is appropriate.

The Court GRANTS the motions for downward departure.

IT IS SO ORDERED, this 23rd day of August, 1993.



Marvin H. Shoob, Senior Judge
United States District Court
Northern District of Georgia

BNL Internal Audit-Related Documents

The intent of the enclosed documents is to demonstrate that BNL-New York was aware of the irregularities of the Atlanta office prior to the August 4, 1989 raid.

Chronological Listing Summarizing Documents

- 02/04/87 Memorandum to Renato Guadagnini, Executive Vice President and Regional Manager for BNL-New York, from Vito Cannito, BNL Vice President, outlining the violations of bank procedure revealed in an examination of the Atlanta office of the BNL for the second quarter of 1986.
- 10/03/88 Letter to Christopher Drogoul, First Vice President and Manager of BNL-Atlanta, from Luigi Sardelli, Executive Vice President and Regional Manager for BNL-New York, addressing the irregularities reported in the memoranda by the BNL Regional Auditor because of "the magnitude of the amounts involved and the seriousness of the findings" at the Atlanta office.
- 10/06/88 Letter to Luigi Sardelli from Christopher Drogoul in response to the concerns raised in the October 3, 1988 Sardelli letter.
- 12/22/88 Audit Report to Luigi Sardelli from Louis Messere, BNL Vice President-Chief Internal Auditor, citing specific recommendations to insure that BNL-Atlanta adheres to proper loan controls.
- 07/26/89 Letter to Christopher Drogoul from Louis Messere and Pietro Lombardi, Regional Manager for New York, transmitting the report of examination (follow-up to September 2, 1988 audit) of the Atlanta office in which a review was undertaken to evaluate corrective actions taken since the previous examination.
- 07/27/89 Letter to Christopher Drogoul from Pietro Lombardi citing criteria that needs to be implemented in response to the July 26th report of examination.



BNL - ISPETTORE E SICUREZZA					
COMUNE DI ARNO DEL					
13 SET. 1989					
REGIONAL MANAGEMENT		F. C.		F. C.	
F. C.		F. C.		F. C.	
F. C.		F. C.		F. C.	

Date:

(27) 9
2/4/87

Interoffice Memo

REGIONAL MANAGEMENT

TO: MR. RENATO GUADAGNINI - EXECUTIVE VICE PRESIDENT,
REGIONAL MANAGER

FROM: MR. VITO D. CANNITO - VICE PRESIDENT

SUBJECT: RESULTS OF AUDITING THE ATLANTA BRANCH

I have examined the financial records of the Atlanta Agency as of the close of business June 6, 1986. The report which follows includes the results of the subject examination together with the verification procedures used in the conduct of the examination.

Scope of the Examination

The scope of the examination included a review of the financial records, confirmation of outstanding loans and funds borrowed, examination of bank reconciliations, verification of the accuracy of interest and expense accruals, and a general review of internal control.

Summary of Findings

The review of the financial position showed continued growth in earnings and in total assets.

Review of the funding of the loan portfolio at the examination date showed that maturing deposits and borrowings exceeded maturing loans by \$67,484,396 and the authorized limit by \$42,484,396.

The average maturing deposits and borrowings for the six month period ending with the examination date exceeded the

Memorandum - Mr. Renato Guadagnini
Atlanta Audit - Page 2
February 4, 1987

94

authorized limit of \$12,500,000 by \$10,408,097. This was subsequently corrected by obtaining an increase in the limit to \$25,000,000.

The account with Morgan Guaranty Trust Co. was overdrawn on Morgan's books by \$3,165,693.37 due to a non-recap of a credit for \$4,400,000.

Some internal control deficiencies were noted.

Review of Financial Results

The net profit of the branch was up by \$536,771.00 as of the close of business on the examination date over the comparable date in 1985. A 64% increase in assets over the prior year and a lower interest cost of borrowed funds were responsible for the higher earnings.

Internal Control Review

A general review of internal control was made during the course of the examination. Controls reviewed appeared to be adequate, although the following deficiencies were noted.

Descriptions on accounting entries need improvement to clearly explain the nature of the entries.

It was noted that accounting entries were being changed in the computer entry room by the data input clerk. The changes were not initialed by a supervisor and no explanation was made on the entry to justify the change.

Memorandum - Mr. Renato Guadagnini
Atlanta Audit - Page 3
February 4, 1987

95

The Agency Management promised that corrective action would be taken.

Due From Banks

Review of the reconcilements of all bank accounts showed that they were being prepared on a timely basis and all reconciling items were receiving attention. All reconcilements were being reviewed on a continuous basis for control purposes by the operations officer.

The account with Morgan Guaranty Trust Company was overdrawn by \$3,165,693.27 on the books of Morgan Guaranty Trust Company at the last reconciliation date (May 31, 1986) prior to the examination date.

The overdraft was created by the non-receipt by Morgan of a credit from the Bank of California in the amount of \$4,400,000 and non-receipt of \$562,494.53 in payments by Banque MISR. The funds from the Bank of California were received on June 2, 1986 clearing the overdraft.

Confirmation of the balances on deposit with each depository bank was requested as of the close of business May 31, 1986. The results obtained are included in the confirmation summary of this report.

Memorandum - Mr. Renato Guadagnini
Atlanta Audit - Page 4
February 4, 1987

Review of the Loan Portfolio

The loan portfolio and the related funding was reviewed during the course of the examination. The structure of the loan portfolio is shown in the following comparative summary of positions occurring on the examination dates specified.

(000 omitted)	<u>June 6, 1986</u>	<u>August 16, 1986</u>
United States	\$157,861,213	\$155,987,222
Mexico	65,748,538	46,438,475
Greece		636,269
Spain		749,481
Czechoslovakia	2,714,535	4,291,995
Yugoslavia	57,985,433	50,883,789
Portugal	49,966,248	56,697,422
East Germany		7,005,204
Iraq	162,431,898	11,477,473
England		250,000
Turkey	101,891,911	73,864,741
Israel	3,268,553	11,289,133
Indonesia		81,942
Hungary	40,486,111	30,849,794
Egypt	24,352,968	
Italy	209,619	
Korea	5,290,045	
Romania	20,848,829	
	<u>\$693,055,901</u>	<u>\$450,502,940</u>

The increase of 65% in the loan portfolio was mainly due to Commodity Credit Corporation financing transactions with Iraq. These transactions amounting to an increase of \$150,954,425 over the amount outstanding at the previous examination date are 98% secured by the Commodity Credit Corporation (C.C.C.).

Payments due from Banque MISR amounting to \$562,494.5 were past due at the date of the examination but were received subsequently.

92:

Memorandum - Mr. Renato Guadagnini
Atlanta Audit - Page 5
February 4, 1987

The Atlanta Agency is authorized to grant and approve lines of credit up to \$750,000.00 while the Regional Management which supervises north American Banks is authorized to approve lines up to \$4,000,000. All other lines of credit must be approved by the Head Office in Rome. Lines of credits of credit to banks are reviewed and granted by the Head Office. Loans to banks in foreign countries which do not have current lines of credit are approved on a transaction by transaction basis by the Head Office.

Confirmation requests were mailed to all borrowers as of the close of business June 6, 1986. Results of the verification of loan balances is shown in the Confirmation Summary.

Review of borrowers accounts for collectibility of outstanding principal and interest showed that all loan accounts were current at the examination date.

Funds Borrowed

The Atlanta Agency is responsible to fund their loan portfolio by competing in the Money Market for funds. The Agency deals primarily in the federal funds market but also has backup arrangements with Morgan Guaranty Trust Company to supply funds. The Agency may also borrow funds from other BNL branches when it is advantageous to do so.

Branch management monitors the average interest spread on loans over the cost of funds on a daily basis.

Memorandum - Mr. Renato Guadagnini
 Atlanta Audit - Page 6
 February 4, 1987

Funds borrowed by the Atlanta Agency to fund the loan portfolio amounted to \$703,841,176 which represented a 64% increase over the funds borrowed at the date of the previous examination August 16, 1985.

Sources and amounts of outstanding borrowed funds at the close of business June 6, 1986 is shown in the following schedule.

<u>Borrowed From</u> (cents omitted)	<u>June 6, 1986</u>	<u>August 16, 1985</u>
H.O., Branches & - Term	\$ 30,428,696	\$ 23,854,826
Subsidiaries - Overnight	25,760,045	5,779,451
Foreign Banks - Term	106,500,000	88,500,000
- Overnight		3,012,619
Domestic Banks - Term	181,967,488	76,610,491
- Overnight	1,000,000	
BNL IBF - Term	145,500,000	37,100,000
Due to Other IBF - Term	142,949,486	136,174,229
- Overnight	64,500,000	75,000,000
T/D in Fgn Curr - Term	<u>5,235,461</u>	<u>5,053,423</u>
	<u>\$703,841,176</u>	<u>\$451,085,039</u>

It was noted that the total maturing deposits and borrowings for the 1-30 day category exceeded maturing loans by \$67,484,396 on the examination date. This excess was above the authorized limit of \$25,000,000 by \$42,484,396.

In addition the average of maturing deposits and borrowings for the six month period ending on the examination date was \$22,908,097 exceeding the authorized limit of

Memorandum - Mr. Renato Guadagnini
 Atlanta Audit - Page 7
 February 4, 1987

99

\$12,500,000 by \$10,408,097. However, the Agency had applied for an increase in the limit to \$25,000,000. The increase was subsequently granted.

Confirmations were mailed to all lenders of funds to the Atlanta Agency. Results of the verification of outstanding borrowings are shown in the confirmation summary of this report.

Accrued Expenses

Certain major expenses such as rent, salaries, personnel expenses, machine rentals, and maintenance are accrued and expensed on a daily basis. The Management authorizes the original list of daily expense accruals at the start of the year. Subsequent changes to the authorized expense accruals must be authorized by Management.

Expense accruals were test checked for adherence to the amounts authorized by the Management and for reasonableness.

No exceptions were noted.

Accrued Interest Receivable and Payable

Accrued interest receivable and payable were exhaustively test checked to determine that the amounts being accrued as interest income and interest expense were accurately stated and the basis used for accruing interest was consistent with recognized accounting procedure.

No exceptions were noted.

Memorandum - Mr. Renato Guadagnini
 Atlanta Audit - Page 8
 February 4, 1987

Time Deposits in Foreign Currencies

Time deposits in Deutsche Marks and Swiss Francs were placed with the New York Branch, the Zurich Branch and the London Branch to hedge loans placed in the same foreign currencies.

Confirmation requests were sent to these branches to verify the details of the deposits. The results obtained are included in the Confirmation Summary of this report.

Confirmation Summary

<u>General Ledger</u> <u>Descriptions</u>	<u>Mailed</u>		<u>Received</u>		<u>Percentage</u>	
	<u>No.</u>	<u>Amount</u>	<u>No.</u>	<u>Amount</u>	<u>No.</u>	<u>Amt.</u>
Unsecured Loans						
Dom. Customers	13	\$ 87,620,294	13	\$87,620,294	100%	100%
Unsecured Loans						
Fgn. Customers	1	550,000	1	550,000	100%	100%
Participations	9	69,690,919	9	69,690,919	100%	100%
Unsecured Loans						
Banks	16	22,935,879	9	3,565,131	56%	16%
Loans Secured by						
Docs. & Modse.	21	498,857,699	16	302,983,507	76%	61%
Term Interbank						
Lending	4	15,514,757	2	1,166,423	50%	8%
*Due From Federal						
Reserve Bank	1	2,048	1	2,048	100%	100
*Due From Banks	8	1,959,856	6	1,933,897	75%	99
*Due to N.Y.						
Branches	1	2,596	1	2,596	100%	100
Unsecured Loans						
Fgn Money	6	5,237,946	6	5,237,946	100%	100

Memorandum - Mr. Renato Guadagnini
Atlanta Audit - Page 9
February 4, 1987

101

Term Borrowing From H.O., Br. & Subsidiaries	2	\$ 40,428,696	2	\$ 40,428,696	100%	100%
Term Interbank Borrowing from Fgn. Banks	17	106,500,000	15	96,500,000	89%	91%
Term Interbank Borrowings from Dom. Banks	15	181,967,488	14	175,967,488	93%	97%
Term Due to BNL ISF	1	145,500,000	1	145,500,000	100%	100%
Term Due to Other ISF						
Time Deposits in Fgn. Currency	3	\$ 5,235,461	3	\$ 5,235,461	100%	100%

* As of May 31, 1986

Confirmations Not Received

Extensive confirmation work has resulted in the response shown in the preceding schedule. The borrowers, lenders, and depositors listed below did not respond to two requests for confirmation of outstanding balances.

Depository Banks Not Responding

	Balance June 6, 1986
Citizens and Southern Bank, Atlanta, Ga.	\$ 1,016.67
Jugobanka, New York	24,941.94

Borrowers Not Responding

Rafidain Bank, Baghdad	3,071,444.88
Nacional Financiera S.A., Mexico	164,607.10
Korean Development Bank, Seoul	3,290,044.69
Turkiye Is Bankasi A S, Ankara	\$ 700,000.00

Memorandum - Mr. Renato Guadagnini
 Atlanta Audit - Page 10
 February 4, 1987

	<i>PERGAL</i>
Beobanka Beogradaka As Banka, Lisbon	\$ 4,752,345.79
Banco Nazionale Ultramarino, Lisbon	17,954,304.18
Rafidain Bank, Baghdad	133,081,096.55
Rafidain Bank, Baghdad	26,279,356.45
Romanian Bank for Foreign Trade, Bucharest	13,807,088.18

Lenders Not Responding

Ufficio Italiano Dei Cambi, Rome	11,708,026.93
Sumitomo Bank Ltd. New York	5,000,000.00
Kansai-Osaka Bank Ltd. London	5,000,000.00
Industrial Bank of Japan, N.Y.	6,000,000.00
Industrial Bank of Japan, N.Y.	4,000,000.00
Sumitomo Bank Ltd., N.Y.	12,000,000.00
Credito Italiano, N.Y.	\$ 2,500,000.00

BANCA NAZIONALE DEL LAVORO

BNL

BANCA NAZIONALE DEL LAVORO

20a/18

LUIGI SARDELLI
Executive Vice President
& Regional Manager

October 3, 1988

3/10/1988
L.H.

Mr. Chris Drogoul
Banca Nazionale del Lavoro
Atlanta Branch
Gas Light Tower
235 Peachtree St., N.E.
Suite 2000
Atlanta GA 30303

cc: Direzione Centrale
Ispettorato e Sicurezza
c/o Dott. Lucio Costantini
NY (by hand)

Regional Auditor,
New York

Dear Mr. Drogoul:

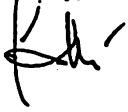
I enclose herewith a copy of two memoranda which because of the magnitude of the amounts involved and the seriousness of the findings have been sent to me by our Regional Auditor on an interim basis.

On a personal level I must say that I was shocked and dismayed. Given the extreme accessibility with which I make myself available anytime of the day (and the night) to whomever officer of this Area asks for guidance, I would have never expected that such a situation exist in the Atlanta Agency.

But then the question comes: how can anyone lend guidance to people who evidently do not want to be guided?

Reverting to officialdom I believe that your explanations of the circumstances which prompted the existence of so many unacceptable exceptions are needed with the utmost urgency. You undoubtedly realize that in certain cases Executive Committee Resolutions have been defied (the Head Office letters dated Feb. 18 and May 30, 1988 on Cargill have not even been answered) whereas "country risk exposures", the domain of our Board of Directors, seems to have been exceeded out of any proportion with the amounts authorized. I suggest that you prepare a memorandum of explanation touching upon all the topics contained in the Regional Auditor's memoranda, so that it can be discussed at a meeting with me to be held on Friday, October 7, 1988, in New York, Bank premises 7th Floor.

Sincerely,



197

20a/19

BANCA NAZIONALE DEL LAVORO

PEACHTREE CENTER GAS LIGHT TOWER - SUITE 2000
 235 PEACHTREE STREET, NE ATLANTA, GEORGIA 30303
 (404) 541-0143 Telex 54-2184

Head Office
 ROME - ITALY

October 6, 1988

Dr. Luigi Sardelli
 Regional Manager
 Regional Management, New York

Dear Dr. Sardelli:

Thank you very much for your memorandum dated October 3rd regarding the exceptions mentioned by the regional auditor during his recent inspection.

Without equivocation, I can say that the exceptions noted by Mr. Messere and his staff are essentially correct. A reply to each item is addressed individually in the attached addenda. However, I do believe one should put this entire matter in perspective.

The Atlanta branch is composed of 19 people who are very service oriented and committed to the development of BNL. Through their collective efforts the branch has generated net profits of USD 7,423,146.93 in the past 3 years, and at the same time replenished the original capital base. Total reserves, capital and year to date profits total USD 9,423,146.93.

In addition, the quality of assets developed and maintained by the Atlanta branch are generally speaking the envy of our competitors. We have no bad loans or classified debt, and the corporate and correspondent relationships developed over the past five years could be considered to form a part of the new foundation our bank needs to be competitive in the United States. This said, we in Atlanta are not without faults.

Over the past 3 to 4 years we have grown dramatically. In the words of one of the auditors, Atlanta has the same staff level of Chicago but ten times the volume of transactions. Certainly this generates increased profits, but it also places stress on a valuable group of people, who, because of volume and lack of organizational guidance from Head Office and Regional Management have become somewhat disorganized.

RAZIONALE DEL LAVORO

Mr. L. Sardelli

October 6, 1988

Page Two

Thus, postings of liabilities were being done on a delayed basis and small errors occurred involving letters of credit. The filing system has not been centralized for easy access of certain documents. Other exceptions have been noted, signifying that we are disorganized in certain areas. This is not an excuse for being disorganized, but merely an observation. //

In other areas, however, where it is essential that fundamental accounting and operational controls be adhered to for the proper functioning of a Branch, things are in order. Mr. Messere I hope will attest to this point.

Finally, there is a subject noted by Mr. Messere that concerns me greatly. In several instances, the auditors pointed out that we have exceeded certain limits, whether for the purchase of Perugina chocolates for customers at Christmas to lending above limits established by Head Office.

I truly would not wish for this problem to be considered to be caused by excessive zeal, or lack of caution, for it is not. It is rather a problem attributable to the response time needed from Head Office or Regional Management, disorganization at those two areas of the Bank, and also due to the need to refrain from destroying customer relationships as changes occur in approvals from Rome and in corporate balance sheets. //

When one is told by the treasury department of General Motors Corporation that, although AAA rated, BNL is not an acceptable bank to confirm a sight letter of credit advised in its favor, and that Societe Generale must confirm our risk before GM will accept anything from us; when Borden's treasury department states that it will not do business with our New York Branch as a result of the mishandling of certain transactions over the past 2 years, it is clear that we as a bank have image problems...and therefore every relationship which BNL has must be cultivated and nurtured. Treasurers and cash managers talk amongst themselves. Vc

Thus the rationale for trying to inform Cargill in an acceptable manner that its borrowing facility needs to be reduced to \$ 75 million from \$ 125 million, rather than slamming the order on Cargill's desk, causing the reflexive thought, "I wonder what is going on at BNL... we doubled our profits this year; our balance sheet is stronger... but our line has been reduced."

AZIONALE DEL LAVORO

Mr. L. Sardelli
October 6, 1988
Page Three

Exceeding the limits assigned to us by Rome is also a grave matter, and here I refer to BNL Atlanta's exposure to B.A.D.R. Yes, limits were exceeded, principally because of confusion between Rome and Atlanta over what indeed had been approved.

When letters of credit are telexed to us in the course of our daily activity by foreign banks involved in the C.C.C. program, for our customers, we have a choice: either to advise the credits and solicit approval from Rome, or to return the credits. This latter action slows down the export process, enervates the foreign institution, and above all, aggravates our customers. In the past we have immediately notified Rome that we are in receipt of letters of credit from a particular bank for our customers, and if appropriate have requested approval to handle these items.

Since in many cases a formal request must be presented to our Board of Directors, 6-8 weeks can pass before a piece of paper lands in Atlanta. C/C's cannot sit in a bank unattended for more than a few days and so we have in the past telephoned Rome for its opinion as to whether a particular limit will be approved, and generally if the indication is positive, we have proceeded to issue the l/c's. The difficulty with B.A.D.R. is that with the dissolution of S.A.I., positive indications from Rome were not converted into approvals. And so, we have learned our lesson.

We must rely strictly on pieces of paper, but yet in turn we must find an efficient mechanism to speed C.C.C. approvals (which is essentially U.S. government risk) in order to continue our lucrative trade activities.

Mr. Messere's visit to Atlanta was long overdue and welcomed, for apart from the exceptions noted, it provided us with the organizational guidance required to review our operations and administrative procedures. The auditors provided us with recommendations enabling us to conform to the guidelines established in Rome. Far from being upset with the findings, I am grateful for his visit.

My regret in all this is your memo indicating personal dismay. Although we are hardly perfect people here in Atlanta, I believe you know that our activities are undertaken for the development of the bank, with caution and care. While I may disagree with some of your methods, I largely applaud your goals and would therefore not wish to loose your trust and confidence.

Attached are our replies to Mr. Messere's comments.

Best regards,

Luigi

ANCA NAZIONALE DEL LAVORO

Mr. L. Sardelli
October 6, 1988
Page Four

ADDENDUM A

- Memorandum dated 23 September 1988 -

- A. Contingent accounting entries not being posted on a timely basis.

True. At monthend 31/8/88 the L/C department was short one staff member (L/C clerk-typist) and several entries were not passed until 2/9/88, though even these postings were not correctly reflected in some cases.

We have instituted a system to ensure that entries are passed at the time advices are mailed to L/C beneficiaries, and that they are reduced upon negotiation and/or expiration of the letter of credit. This system is similar to that employed at NY branch.

- B. 4 leased automobiles show no evidence of approval from Regional Management, N.Y.

This issue was discussed last November at which time we reported the automobile leases to Head Office and also to Regional Mgt. We had written a memo to Mr. Barsoom explaining that in 1986 the Regional Manager had given us the verbal approval to sell our 1981 Ford and replace it with leased automobiles.

- C. Uncleared cash advances totalling \$ 12,450 given to branch manager.

These advances consist of funds given the manager over the past 18 months to cover cash expenses (trips, taxi fares, and several hotel expenses) involving business trips, including the Rome Manager's meeting. These will be cleared by 30 November 88.

- D. In 1985-6 we received from Servizio Immobiliare an approval for the purchase of furniture in connection with our expansion. We have not been able to find the approval in our records but will forward it to the Regional Auditor shortly.

- E. No regional management approval could be found for the expenditure of \$ 1850 for Perugina chocolates sent to customers during Christmas 1987.

In October 1987 we forwarded to Rome a request to spend circa \$800 for chocolates, as required. We received no reply to our request; but with Christmas upon us, the chocolates were sent out. We will not send any gifts of this sort again without approval.

- F. Entrade collateral.

The collateral was received on September 28th, 1988 and upon receipt of 1987 financial data, our renewal proposal will be submitted.

ACA NAZIONALE DEL LAVORO

Mr. L. Sardelli
October 6, 1988
Page Five

ADDENDUM B

- Memorandum dated 27 September 1988 -

A. Credit lines in excess:

	<u>facility</u>	<u>outstanding</u>
1) Cargill -	75,000,000 borrowings 50,000,000 fx	127,000,000

This amount was outstanding overnight. The following day the balance was reduced to \$ 97,000,000. On October 3rd we informed the company treasurer that our facility of \$ 125 million was limited to \$ 75 million for borrowings.

2) Bank of China -	40,000,000	33,000,000
--------------------	------------	------------

We submitted to Rome a request to advance 48,000,000 to Amerop Sugar Corporation against time drafts drawn by Cerofi and guaranteed by Bank of China. We were informed that Rome approved the transaction but that it was granted under the interbank line approvals maintained in N.Y. Unfortunately, we did not receive the written approval and the matter is still under discussion.

3) Banque Sudameris -	7,000,000	6,000,000
-----------------------	-----------	-----------

We were under the impression that the total facility available to us for the bank amounted to \$ 9,000,000. Please note, as of today's date our current outstanding is within our approved line.

4) Union Bank of Finland -	7,000,000	7,643,000
----------------------------	-----------	-----------

This transaction involves our customer BellSouth and in aggregate, when the total amount converted from Sterling to U.S. dollars the loan exceeds our approval by \$ 643,000. At maturity on November 14, 1988 we will not require renewal of the facility.

5) Credit Lyonnais -	0 -	3,570,000
----------------------	-----	-----------

This transaction was entered into with the understanding that approval would be forthcoming. The loan was repaid on September 13, 1988 before this approval arrived.

NAZIONALE DEL LAVORO

Mr. L. Sardelli
October 6, 1988
Page Six

ADDENDUM B -continued

- Memorandum dated 27 September 1988 -

6) B.A.D.R.

Rome informs us that total lines established for Atlanta branch in favor of B.A.D.R. amount to \$ 196.2 million with one proposal of \$ 15 million under discussion. Our current exposure on October 30th, 1988 will be approximately \$ 213 million or less than 10% above the total current approvals.

While we were clearly over the limit established, the outstanding balance is reducing quickly. We have notified B.A.D.R. that for the time being, we are unable to participate in C.C.C. programs to that country.

If you wish, we are able to sell about \$ 50 million worth of transactions to Fuji Bank, Paris. This bank has expressed a keen interest in purchasing our Algerian C.C.C. assets.

B. Interbank lines:

Agreed.

C. 2650 discrepancies:

We await auditors further comments.

D. Credit proposals not modified:

~~We do not understand the comment.~~

E. Branch authorizations:

We will begin to prepare credit proposals for these transactions.

F. Credit Manager:

Agreed.

G. Operations restructure:

Agreed.

H. Centralization of Accounting functions:

Agreed.

BANCA NAZIONALE DEL LAVORO **BNL** BANCA NAZIONALE DEL LAVORO

AUDITOR

December 22, 1988

AUDIT REPORT

TO: Mr. Luigi Sardelli, Executive Vice President-
Regional Manager

FROM: Mr. Louis N. Messere, Vice President-Chief
Internal Auditor

SUBJECT: ATLANTA AGENCY AUDIT

AUDIT DATE: September 2, 1988

EXAMINERS: Messrs: Louis N. Messere, Vice President-Chief
Internal Auditor
Christopher Russello, Assistant Secretary-
Deputy Auditor
Frank Campagnuolo, Intermediate Internal
Auditor

SCOPE:

An examination of the Atlanta Agency was conducted as of the close of business September 2, 1988. In general, the examination included a review of all major areas of the branch including lending and credit administration, loan processing, investment portfolio, foreign exchange and money market trading and processing, funds transfer payment mechanisms and related communications networks, compensation and investigations cases, deposit services, letters of credit and acceptances, sundry and suspense accounts, correspondent bank reconciliations, purchasing/ accounts payable, travel and entertainment expenses and a review of income and expense accounts. Other areas reviewed included collections, fixed assets, issued and unissued checks and other consigned items, regulatory reporting, bank security and mail room procedures. All of these areas were analyzed for conformity to existing policies and procedures in place both at the Agency and organizational level as well as to generally accepted accounting standards and those of the banking industry.

Compliance and substantive testing performed consisted of a testing of transactions including examination of

Head Office:
ROME-ITALY

NEW YORK BRANCH AT ROCKEFELLER PLAZA
25 WEST 54TH STREET NEW YORK, N.Y. 10019
Phone (212) 561-0710 Telex 62840

Cable Address:
LAVOROBANK

supporting documentation and related approvals, review of workflows, physical verification as applicable, review of the extent of managerial reporting, and other testing as deemed necessary.

In addition, we made reference to prior published reports of our external auditors and regulatory examiners.

The examination was conducted by Mr. Louis N. Messere, Vice President-Chief Internal Auditor with the assistance of Mr. Christopher Russello, Assistant Secretary and Mr. Frank Campagnuolo, Intermediate Internal Auditor.

OPINION:

In our opinion, based on the audit findings noted during the examination, the Agency's operations, accounting and internal controls were found to be in need of improvements in most areas and our findings were discussed at length with the Agency Management throughout the course of the examination. It is important to point out, however, that the Agency's profits through 8/31/88 as compared to 8/31/87 increased from \$1,363,967.51 to \$2,009,571.02, which was slightly above projections.

Although specific recommendations are outlined in the attached list of audit issues, they are briefly summarized below:

- o Agency Management and staff were very cooperative and receptive to suggestions made during the course of the audit. Delays, however, have been experienced in the receipt of requested details and/or documentation, which in some cases has yet to be provided. These experiences were not only an indication, but a confirmation that the Agency is in need of a Senior Administrator to address and implement the many corrective measures suggested to assure proper workflows, to attain an acceptable level of segregation of duties and to minimize risks that the bank is currently exposed to.
- o Several accounting procedures were either not being followed or were not being properly handled, particularly with regard to the booking of Letters of Credit contingencies, accruals for expenses and timely recognition of L/C commissions. The Agency was also criticized on the first subject in prior examinations conducted by the Georgia State Banking Examiners. We remind the Agency

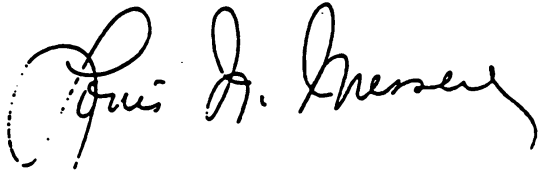
to adhere fully to established accounting procedures and to request in writing guidelines from the New York Branch as necessary. It is also recommended that the Agency consolidate all accounting functions under one person to properly segregate accounting from operating functions.

- o The accounting data preparation and its flow and input into existing systems does not comply with existing BNL practices and procedures and as such is deficient of sound practices and controls. As recommended in the audit details, each processing area should be responsible for its data preparation to be submitted to the EDP clerk for input to the EDP accounting system(s).
- o Several cash advances given sometime ago to the Agency Manager for travel have yet to be cleared. We urge resolution of these items by December 31, 1988.
- o The Agency should refrain from exceeding approved credit lines and/or from initiating activities unless they are covered by properly approved credit lines.
- o A Credit Manager should be designated to centralize maintenance and control over all of the credit files as well as to assure that required approvals have been obtained and are in place, that necessary loan documentation/collateral is on file, and that the credit line information on the automated systems is current and complies with approved customer and interbank lines. Furthermore, he will also be responsible to reply to "Rilievi" received from Head Office, for which the Agency was noted to be procrastinating in their resolution.
- o While it is understandable that the Agency is undergoing a rather difficult period in order to keep up with both the Mantec and the BNL systems, continuous efforts should be made by key personnel to familiarize themselves with all aspects of the new system, in particular, by referring to the system documentation provided. In this regard, use of and reliance on the official automated system records for the Agency is essential, and adherence to BNL standards and procedures is of utmost importance. Therefore, use of internal systems developed on the CPT word processor should be discontinued as it represents a duplication of efforts. The Agency should

rely on existing systems and automated reports as they represent the official systems of the bank.

- o Controls need to be strengthened. Both the Loan and L/C processing areas currently reporting to the Lending Officer responsible for generating "CCC" financing activities should be reassigned under the Operations Officer. In addition, both areas require major changes in current workflow to provide for improved maintenance of files, better segregation of duties between individuals and also between processing areas to strengthen accuracy of processing and consistency of transaction recording by allowing for both a preparer and a verifier/approver on all transactions, to assure that duly authorized evidence of indebtedness has been obtained for all loans outstanding, and to assure that technical requirements related to the financing have been fulfilled.
- o Several expenses lacked Head Office and/or Regional Management approvals as required, particularly legal expenses, four existing car leases and an extensive leasehold improvement. The Agency is reminded to comply fully with established policies and procedures and approval requirements.
- o A record retention program should be initiated and all vital records must be microfilmed as recommended.
- o Noted exceptions related to the classification of IBF transaction should be corrected.

Following receipt and review of the attached report, which includes audit findings and a detail of suggested procedures to enhance the current environment, the Atlanta Agency Management should formally respond to the audit recommendations and comments by January 31, 1989 and they may contact us should they need any clarifications.

A handwritten signature in dark ink, appearing to read "Louis H. Gresser". The signature is fluid and cursive, with a large initial "L" and "G".

BANCA NAZIONALE DEL LAVORO **BNL** BANCA NAZIONALE DEL LAVORO

REGIONAL MANAGEMENT
NORTH & CENTRAL AMERICA

July 26, 1989

Mr. Christopher Drogoul
First Vice President and
Manager
Banca Nazionale Del Lavoro
Atlanta Agency

Dear Mr. Drogoul,

Enclosed is the report of examination of the Atlanta Agency recently completed by our Internal Auditors as of the close of business June 16, 1989.

The examination which included primarily a follow-up of the previous audit as of 9/2/88, to which your reply was received on July 20, 1989, also included reviews of selected areas.

Following your review of the audit report, please see to it that each recommendation and comment is responded to indicating corrective measures taken. Your response should reach us no later than August 31, 1989.

Thanks for your cooperation and remain,

Very truly yours,

BANCA NAZIONALE DEL LAVORO
NEW YORK
REGIONAL MANAGEMENT

Louis M. Messere,
Vice President-
Chief Internal Auditor

Pietro Lombardi,
Regional Manager

BANCA NAZIONALE DEL LAVORO



BANCA NAZIONALE DEL LAVORO

AUDITOR

July 26, 1989

AUDIT REPORT

TO: Mr. Christopher Drogoul, First Vice President-Atlanta
Agency Manager

CC: Messrs: Pietro Lombardi, Regional Manager
Carlo Vecchi, Senior Vice President- New York Branch
Manager

FROM: Mr. Louis N. Messere, Vice President-Chief Internal Auditor

SUBJECT: ATLANTA AGENCY AUDIT

AUDIT DATE: June 16, 1989

EXAMINERS: Mr. Louis N. Messere, Vice President-Chief Internal Auditor
and Mr. Samuel Kelly Jr., Senior Internal Auditor

SCOPE: An examination of the Atlanta Agency was conducted as of the close of business June 16, 1989.

This examination, which included primarily a follow-up review of corrective actions taken subsequent to the prior audit as of 9/2/88, also covered:

- A review of account reconciliations, of sundry/suspense accounts and of interest receivable accounts.
- An inventory of all Letters of Credit outstanding, as per the financial records, to the individual folders kept by the L/C area.
- A review of the documentation retained with regard to the Mantec final conversion as of May 1, 1989.
- A review of certain expense categories and specifically travel & entertainment and capital expenditures.
- A comparison of outstandings transactions versus authorized credit lines and compliance with established position and mismatching limits.
- The mailing of audit confirmation requests to customers covering all outstanding transactions.

In addition, we reviewed reports of examinations issued by Peat Marwick Main & Co. and by the local regulatory bodies and we conducted other audit tests as deemed necessary.

Head Office:
ROME-ITALY

NEW YORK BRANCH AT ROCKEFELLER PLAZA
25 WEST 54TH STREET * NEW YORK, N. Y. 10019
Phone (212) 511-0710 Telex 62840

Cable 400111
BANCA NAZIONALE DEL LAVORO

(h)

OPINION:

In our opinion, subsequent to the audit follow-up and as a result of the many changes recently effected, the operational workflows and controls of the Atlanta Agency have improved. We are confident that they will further improve once the remaining changes, as documented in the prior audit reply, are fully implemented.

Although specific recommendations to the audit findings are outlined in the attached document, they are summarized below:

- o Agency Management should correct the reported credit utilization excesses and obtain the required collateral documentation as soon as possible. Furthermore, all excesses should be formally channelled through Regional Management and/or Head Office for their review and approval.
- o Agency Management should attain a better segregation of functions covering the Letters of Credit processing area and the back-up for the trader.
- o The Agency should make every effort to utilize the New York Branch rather than Morgan, New York for all their US\$ clearings.
- o All operations areas should comply fully with established accounting procedures with regard to the timely booking of L/C's liabilities, the loading of collections and the proper classifications of loans purchased and/or sold.
- o Greater participation should be sought with the Mantec Project, particularly in the expansion/enhancement of the L/C system and in the review and eventual implementation of the Commercial Loan module.

Following receipt and review of this audit report, a draft of which was provided and discussed with you at the conclusion of this audit, please forward your formal response to the specific audit recommendations and comments by August 31, 1989.

Chris J. Casner

BNL-ATLANTA
AUDIT FINDINGS-GENERAL COMMENTS
AUDIT DATE-JUNE 16, 1989

AGENCY MANAGEMENT ISSUES

1. Given the size and structure of the Atlanta Agency there remains two areas whereby a better segregation of functions can be attained:
 - A. The trader is currently backed up by a lending officer and vice-versa.
 - B. The Letters of Credit processing area should be reporting to the Operations Officer of the Agency instead of the designated lending officer for trade finance. The latter is very much involved in the day-to-day operations of the L/C area.
2. The Atlanta Agency should make every effort to utilize the New York Branch rather than Morgan, New York for all their US\$ clearings.
3. Agency Management should seek greater participations with the Mantec project team, particularly in the expansion/enhancement of the L/C system and in the review and eventual implementation of the commercial Loan module, which is very much needed by the Atlanta Agency to provide better control and flexibility in the handling of CCC loans. With regards to the L/C system, as it is expanded the features currently in place on the CPT system network should be intergrated therein.

AUDIT FOLLOW-UP

1. During the course of this review, conducted as of 6/16/89, a review of the prior audit report was conducted with the agency management and staff. Corrective measures as well as changes in procedures were made and implemented as we proceeded through the report. A formal written response to the prior audit report was received on 7/20/89.
2. In the course of the follow-up a number of issues have been identified and need to be realized over the next few weeks. In this regard, a memorandum was prepared by the Internal Auditor and addressed to the Agency Manager providing a description and responsibility for each.

LETTERS OF CREDIT PROCESSING/COLLECTIONS

1. In reviewing processing for letters of credit, it was ascertained that adequate controls are not in place to ensure that all transactions are recorded in a timely manner. It is recommended that a comparison of credits recorded onto the on-line systems be made with outstanding L/C folders on a regular basis (including those issuances where the applicable parties have been advised). As the discrepancies noted were based on a limited selection, it is advised that this be done as soon as possible. During this process the recently designed L/C folder insert should be added to each folder which does not have one.
2. In several instances, it was noted that credits were issued on behalf of companies which did not have approved lines and recorded under the liability of an affiliate company (i.e. Texas Cotton Trading under W.B. Dunavant and Honenberg Bros. under Cargill, Inc.). As agreed in response to the prior audit, the branch will in the future ensure that both the letter of credit application and the credit facility provide for issuance on behalf of the primary customer and its affiliates, where applicable.
3. Details of to the applicable terms and conditions relating to commission and financing for L/C's are generally not provided in the individual folders. As agreed in response to the prior audit, "inserts" noting the terms and conditions applicable to a particular L/C will be included in all folders going forward.
4. As agreed in response to the prior audit, responsibility for the control and maintenance of CCC and Eximbank guarantees serving as collateral for secured loans will be transferred to Credit Administration. Additionally, responsibility for follow-up and dual-control over these items should also be that of the Credit Administrator.
5. Currently collections are not being recorded and as agreed during the course of this review, they should be booked in the appropriate general ledgers by the Letters of Credit area.

LOAN PROCESSING

1. Advances made against documentary collections (i.e. Exportkreb), deferred payments (i.e. Korea First Bank) and/or negotiated documents for which the paying bank has not acknowledged liability should be supported by written acknowledgement of BNL's recourse to the beneficiary.
2. A review of the Interest and Commitment Fee Receivable accounts revealed no major problems. It is however, recommended that the loan processing area prepare a monthly list of outstandings and circulate it to all parties concerned to help expedite receipt of payment.

3. A more appropriate general ledger should be obtained for processing discounted secured loans, as the present general ledger cannot process discounted transactions. This should result in a reduction in the amount of manual efforts required and a more accurate reporting (i.e. actual balances, interest rates, and interest income).
4. Loans currently classified as "participations purchased" should be transferred to a more appropriate general ledger(s) as they represent direct loans by BNL Atlanta which were sold. It is recommended that the "comment" feature, available on the Mantec system, be used to facilitate cross-reference and notation of the reduced country risk. Additionally, those loans which were actually purchased from third parties (i.e. Ljubljanska Banka and Banque Marocaine du Commerce Extérieur) should be reclassified to the appropriate participations purchased general ledger(s).

CREDIT ADMINISTRATION

1. Credit lines recorded on the Mantec system currently includes both lines which had been proposed, but not yet approved, and specific lines which have expired. In order to more accurately reflect current exposures versus current facilities, only lines for which evidence of approval has actually been received should be loaded onto the Mantec system. In this respect, a review of existing lines should be made to assure that they are properly reflected.
2. A review of customer exposure versus available lines of credit (as of June 16, 1989) revealed several excesses which should be appropriately dispositioned (see attached Schedule I). Additionally, the comment section on the "2650" report should be utilized to properly cross-reference credit utilization by affiliated parties.
3. Responsibility for monitoring the adequacy of collateral as required under the terms and conditions of the approved credit facility should reside with the Credit Administrator. In this respect the collateral insufficiency for Central Bank of Iraq (which had, as of June 16, 1989, outstanding liabilities of \$41mm versus \$36mm in cash collateral) should be addressed and resolved as soon as possible.
4. As agreed in response to the prior audit, responsibility for monitoring the receipt of "evidence of debt" should be transferred from the lending officers to the Credit Administrator.

COLLATERAL

1. Documentation supporting the pledge of cash deposits (for Central Bank of Iraq and Industrial Interamericana) should be obtained immediately.
2. A review of those accounts classified as "Cash Collateral" should be made and appropriate action should be taken for all accounts which do not actually represent security for financing arrangements.

SUNDRY ACCOUNTS

1. G/L #02824 "Sundry Debit-Customers" should be reconciled on-going by the L/C area, with open items cleared within a reasonable time. As of the audit date, this account contained several advances of FCIA fees paid by BNL Atlanta and collected at maturity. As discussed and agreed during the course of this review, a different procedure needs to be implemented whereby the fees are collected or billed at the time of negotiation.

GENERAL COMMENTS

1. The conversion document as of 5/1/89, evidencing the verification and documentation of the final conversion from the BNL system to the Mantec system was found in good order.
2. All nostro account reconcilements were reviewed as of 6/16/89 and/or 5/31/89 and no exceptions were noted.
3. The issue of advances made to U.S. exporters against documentary collections drawn on Exportkhleb (importer) in the USSR has been referred to Regional Management for resolution, as in the Internal Auditor's opinion, the liability should be booked in the name of the exporter and not the importer.
4. A confirmation discrepancy regarding outstanding L/C's for Cargill, Inc. whereby the customer responded as having an additional \$60mm in outstandings remains to be resolved. As we understand, the customer is to forward a corrected response.
5. A discrepancy in the confirmation of the loan balance listed for Saudi American Bank London (\$550m, due 8/4/89), for which the customer responded as not having an outstanding balance to BNL Atlanta, remains to be dispositioned.

AUDIT CONFIRMATIONS

1. Audit confirmations were mailed for all outstandings as of 6/16/89. A few exceptions have been received and are being attended to for resolution.

Final statistics and tabulation will be provided within the next few weeks.

SCHEDULE I- CREDIT UTILIZATION EXCESSES

<u>CUSTOMER</u>	<u>EXPIRATION</u>	<u>LINE</u>	<u>EXPOSURE</u>	<u>EXCESS</u>
CONTINENTAL GRAIN	5-31-89	\$10,000,000	\$23,231,298	(\$13,231,298) (1)
TATUM FARMS	3-30-90	900,000	1,200,000	(300,000)
BANCO DI NAPOLI	N/A	0	2,700,000	(2,700,000)
CENTRAL BANK OF IRAQ	N/A	36,384,154	41,408,152	(5,023,998) (2)
UNITED MIZRAHI BANK	12-31-89	2,000,000	2,153,623	(153,623)
BANQUE DE L'AGRI- CULTURE ET DU DEVE- LOPMENT RURAL	*	210,000,000	259,029,831	(49,029,831) (3)

- NOTES:
1. INCLUDES BALANCE OF (CONFIRMED) L/C #01465 WHICH WAS ISSUED IN APRIL, 1989 BUT RECORDED SUBSEQUENT TO THE AUDIT DATE.
 2. LETTERS OF CREDIT ARE UNDERSTOOD TO BE ISSUED AGAINST 100% CASH COLLATERAL, THE AMOUNT INDICATED UNDER THE LINE FOR THIS CUSTOMER REPRESENTS THE CASH COLLATERAL BALANCE OF 6/16/89.
 3. ADJUSTED FOR BOTH THE \$50MM LINE WHICH EXPIRED AND \$10MM PROPOSAL FOR WHICH APPROVAL HAS NOT BEEN RECEIVED.
- * REPRESENTS CONSOLIDATION OF MULTIPLE LINES WITH VARYING EXPIRATION DATES.

BANCA NAZIONALE DEL LAVORO **BNL** BANCA NAZIONALE DEL LAVORO

REGIONAL MANAGEMENT
NORTH & CENTRAL AMERICA

July 27, 1989

CONFIDENTIAL

Mr. Christopher Drogoul
First Vice President and Manager
Banca Nazionale Del Lavoro
Atlanta Agency

Dear Mr. Drogoul,

Subsequent to Mr. Messere's visit to the Atlanta Agency, it is requested that steps be taken to correct the conditions reported by the auditors considered to be the most relevant issues:

A. Exposure for CENTRAL BANK OF IRAQ

- The shortage in cash collateral as of 6/16/89 for \$5,023,998.
- Obtain required Hypothecation Agreement from them or request line of credit of 1a categoria from Head Office, until such time that all documentation for the collateral is secured.

B. Exposure for EXPORTKLEB

- Obtain the necessary "Letter of Indemnity" and "Assignment of the collection proceeds" from the U.S. exporters.
- Request lines of credit in the name of exporters to cover advances made to them against documentary collections.

C. Unauthorized exposures or excesses

- Exceptions reported on the attached schedule should be corrected.

D. Memorandum of pending issues dated July 19, 1989 issued by the Internal Auditor

- A status report of its progress should be forwarded to my attention every 15 days.

Thank you for your continued cooperation and immediate attention to these matters and look forward to receiving your comments.

Very truly yours,

BANCA NAZIONALE DEL LAVORO
NEW YORK
REGIONAL MANAGEMENT

Pietro Lombardi,
Regional Manager

SCHEDULE 1- CREDIT UTILIZATION EXCESSES

<u>CUSTOMER</u>	<u>EXPIRATION</u>	<u>LINE</u>	<u>EXPOSURE</u>	<u>EXCESS</u>
CONTINENTAL GRAIN	5-31-89	\$10,000,000	\$23,231,298	(\$13,231,298) (1)
TATUM FARMS	3-30-90	900,000	1,200,000	(300,000)
BANCO DI NAPOLI	N/A	0	2,700,000	(2,700,000)
CENTRAL BANK OF IRAQ	N/A	36,384,154	41,408,152	(5,023,998) (2)
UNITED MIZRAHI BANK	12-31-89	2,000,000	2,153,623	(153,623)
BANQUE DE L'AGRI- CULTURE ET DU DEVE- LOPMENT RURAL	*	210,000,000	259,029,831	(49,029,831) (3)

- NOTES:
1. INCLUDES BALANCE OF (CONFIRMED) L/C #01465 WHICH WAS ISSUED IN APRIL, 1989 BUT RECORDED SUBSEQUENT TO THE AUDIT DATE.
 2. LETTERS OF CREDIT ARE UNDERSTOOD TO BE ISSUED AGAINST 100% CASH COLLATERAL, THE AMOUNT INDICATED UNDER THE LINE FOR THIS CUSTOMER REPRESENTS THE CASH COLLATERAL BALANCE OF 6/16/89.
 3. ADJUSTED FOR BOTH THE \$50MM LINE WHICH EXPIRED AND \$10MM PROPOSAL FOR WHICH APPROVAL HAS NOT BEEN RECEIVED.
- * REPRESENTS CONSOLIDATION OF MULTIPLE LINES WITH VARYING EXPIRATION DATES.

**SELECTED EXHIBITS TO THE GOVERNMENT'S SENTENCING MEMORANDUM FOR
CHRISTOPHER DROGOUL, SEPTEMBER 1992**

BNL-ATLANTA REPORTS TO THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM
(COUNTS 193 - 205)

<u>REPORT DATE</u>	<u>FEDERAL RESERVE REPORTS</u>	<u>NOT REPORTED*</u>
	<u>TOTAL LOANS</u> <u>TOTAL BORROWINGS</u>	<u>LOANS / BORROWINGS</u>
6-30-87 (CT 193)	\$ 789,227,000 \$ 734,805,000	\$ 405,628,758
9-30-87 (CT 194)	\$ 854,959,000 \$ 820,207,000	\$ 740,219,693
12-31-87 (CT 195)	\$ 779,369,000 \$ 712,037,000	\$ 830,833,064
3-31-88 (CT 196)	\$ 733,985,000 \$ 722,106,000	\$ 908,520,178
6-30-88 (CT 197)	\$ 761,888,000 \$ 580,978,000	\$ 897,798,338
9-30-88 (CT 198)	\$ 713,866,000 \$ 482,997,000	\$ 930,403,044
12-31-88 (CT 199)	\$ 675,930,000 \$ 527,528,000	\$ 1,074,005,095
3-31-89 (CT 200)	\$ 744,412,000 \$ 539,795,000	\$ 1,440,257,137
6-30-89 (CT 201)	\$ 762,135,000 \$ 572,245,000	\$ 1,676,011,292

* Plus not reported commercial and industrial loans of about \$500 million on 3-31-89 & 6-30-89 (Counts 202 & 203)

** See also 3-3-89 Financial Recordkeeping & Reporting of Currency & Foreign Transactions form & statements to Federal Reserve Examiner (Counts 204 & 205)

**BNL-ATLANTA BLI REPORTS TO THE UNITED STATES TREASURY
ABOUT MONEY BORROWED OVERSEAS
(COUNTS 206, 208, 210, 212, 215)**

<u>REPORT DATE</u>	<u>AMOUNT BNL-ATLANTA REPORTED AS BORROWED FROM FOREIGNERS</u>	<u>AMOUNT BNL-ATLANTA ACTUALLY BORROWED FROM FOREIGNERS</u>	<u>NOT REPORTED</u>
6-30-87	\$ 372,753,000 (CT 206)	\$ 607,253,000	\$ 234,500,000
12-31-87	\$ 366,034,000 (CT 208)	\$ 848,534,000	\$ 482,500,000
6-30-88	\$ 137,602,000 (CT 210)	\$ 646,002,000	\$ 508,400,000
12-31-88	\$ 341,800,000 (CT 212)	\$1,061,100,000	\$ 719,300,000
7-31-89	\$ 294,970,000 (CT 215)	\$1,313,970,000	\$1,019,000,000

BNL - ATLANTA BQ1/BC REPORTS TO THE
UNITED STATES TREASURY ABOUT LOANS TO IRAQ
(COUNTS 207, 209, 211, 213 - 214)

<u>REPORT DATE</u>	<u>AMOUNT BNL-ATLANTA REPORTED AS LOANED TO IRAQ</u>	<u>AMOUNT BNL-ATLANTA ACTUALLY LOANED TO IRAQ</u>	<u>NOT REPORTED</u>
6-30-87	\$ 82,878,000 (CT 207)	\$ 488,506,000	\$ 405,628,000
12-31-87	\$117,717,000 (CT 209)	\$ 948,550,000	\$ 830,833,000
6-30-88	\$ 95,059,000 (CT 211)	\$ 992,857,000 ¹	\$ 897,798,000 ¹
12-31-88	\$ 62,001,000 (CT 213)	\$1,136,006,000 ²	\$1,074,005,000 ²
7-31-89	\$ 67,084,000 (CT 214)	\$1,863,657,000 ³	\$1,796,573,000 ³

¹ Plus \$200 million in unfunded loan commitments

² Plus about \$900 million in unfunded loan commitments

³ Plus over \$1.2 billion in unfunded loan commitments

BNL-ATLANTA CREDIT APPLICATIONS FOR SECURED LOANS TO IRAQ
(CCC, EXIM AND CBI)

<u>DATE</u>	<u>REQUEST/ AMOUNT</u>	<u>APPROVAL/ AMOUNT</u>	<u>DENIAL</u>
2-4-85	CCC ¹ \$100 MILLION		
2-19-85		CCC \$100 MILLION	
4-18-86	CCC \$100 MILLION		
4-27-86			CCC \$100 MILLION
11-18-87	CCC \$50 MILLION		
12-28-87		CCC \$50 MILLION	
3-7-89	CCC \$100 MILLION		
5-11-89		CCC \$100 MILLION	
3-17-88	EXIM ² \$100 MILLION		
3-18-88			EXIM \$100 MILLION
12-20-88	CBI \$50 MILLION ⁴		
7-13-89		CBI \$50 MILLION	

¹ Single use, non-revolving amount

² Assignment of USDA Commodity Credit Corporation guarantees

³ Insured by Export Import Bank of the United States

⁴ Central Bank of Iraq fully cash collateralized letters of credit

POSITION	MANAGEMENT CHART OF KEY BNL POSITIONS					
	1982	1983	1984	1985	1986	1987
BNL REGIONAL MANAGER - NORTH & CENTRAL AMERICA: New York, NY Renato Guadagnini Luigi Sardelli Pietro Lombardi						
BNL-ATLANTA AGENCY MANAGER: Atlanta, GA Giuseppe Vincenzino Christopher Drogoul Deputy (Acting) Mgr. Christopher Drogoul						

**AUDITS & EXAMINATIONS OF BNL-ATLANTA
(1986 - AUGUST 4, 1989)**

<u>DATE</u>	<u>AUDIT/EXAM CONDUCTED BY</u>	<u>ACTIVITY</u>
3-10-89	PEAT MARWICK	AUDIT REPORT ISSUED
3-28-89	STATE OF GEORGIA	AUDIT REPORT ISSUED
6-16-89	BNL INTERNAL AUDITORS	AUDIT BEGUN
7-26-89	BNL INTERNAL AUDITORS	AUDIT REPORT ISSUED

**AUDITS & EXAMINATIONS OF BNL-ATLANTA
(1986 - AUGUST 4, 1989)**

<u>DATE</u>	<u>AUDIT/EXAM CONDUCTED BY</u>	<u>ACTIVITY</u>
7-10-87	STATE OF GEORGIA	AUDIT BEGUN
7-10-87	FEDERAL RESERVE	EXAM BEGUN
9-21-87	STATE OF GEORGIA	AUDIT REPORT ISSUED
11-22-87	PEAT MARWICK	AUDIT BEGUN
3-4-88	PEAT MARWICK	AUDIT REPORT ISSUED
4-26-88	STATE OF GEORGIA	AUDIT BEGUN
4-26-88	FEDERAL RESERVE	EXAM BEGUN
6-7-88	STATE OF GEORGIA	AUDIT REPORT ISSUED
6-6-88	GAO	AUDIT REPORT ISSUED
9-2-88	BNL INTERNAL AUDITORS	AUDIT BEGUN
11-22-88	BNL INTERNAL AUDITORS	AUDIT REPORT ISSUED
2-6-89	PEAT MARWICK	AUDIT BEGUN
2-10-89	GAO	AUDIT BEGUN
2-27-89	STATE OF GEORGIA	AUDIT BEGUN
2-27-89	FEDERAL RESERVE	EXAM BEGUN
3-7-89	FEDERAL RESERVE	EXAM REPORT

AUDITS & EXAMINATIONS OF BNL-ATLANTA
(1986 - AUGUST 4, 1989)

<u>DATE</u>	<u>AUDIT/EXAM CONDUCTED BY</u>	<u>ACTIVITY</u>
12-31-85	PEAT MARWICK ¹	AUDIT BEGUN
2-21-86	PEAT MARWICK	AUDIT REPORT ISSUED
6-9-86	BNL INTERNAL AUDITORS	AUDIT BEGUN
8-5-86	GAO ²	AUDIT BEGUN
12-15-86	STATE OF GEORGIA ³	AUDIT BEGUN
12-16-86	FEDERAL RESERVE	EXAM BEGUN
12-30-86	PEAT MARWICK	AUDIT BEGUN
1-26-87	FEDERAL RESERVE	EXAM REPORT
2-4-87	BNL INTERNAL AUDITORS	AUDIT REPORT ISSUED
2-20-87	PEAT MARWICK	AUDIT REPORT ISSUED
2-27-87	STATE OF GEORGIA	AUDIT REPORT ISSUED
7-8-87	GAO	AUDIT BEGUN

¹ BNL independent auditors

² General Accounting Office

³ Georgia Department of Banking and Finance

PAYMENTS FOR THE BENEFIT OF CHRISTOPHER P. DROGOUL & FAMILY
(COUNTS 163-169, 185-192, 250-253)

DATE	AMOUNT	DESCRIPTION	SOURCE
2-7-90	\$295,866.90	CASH DISBURSEMENT FROM C. DROGOUL FUNDS	ENTRADE*
4-20-90	201,722.00	CASH DISBURSEMENTS FROM C. DROGOUL FUNDS	ENTRADE*
9-7-90	148,401.99	CASH DISBURSEMENTS FROM C. DROGOUL FUNDS	ENTRADE*
	----- \$645,990.89 -----	TOTAL FOR 1990	
1-17-91	\$101,530.80	CASH DISBURSEMENT FROM C. DROGOUL FUNDS	ENTRADE*
	----- \$101,530.80 -----	TOTAL FOR 1991	
	\$ 2,493,908.43 -----	1987-1991 TOTAL BENEFITS TO C. DROGOUL & FAMILY	

* Previously held for beneficiary C. Drogooul in LHM, COMSUD, Meditcomm and DLT Luxembourg accounts and later transferred through Gabbiano Ltd. in the U.K. and Sandberg Anstaldt in Liechtenstein into Liechtenstein foundations code named "Estampe" and "Cresendo", with the foundations being shareholders of two holding companies, Vermion Ltd of Nicosia, Cyprus and Middelburg NV of Curacao, Dutch West Indies. An additional \$2.25 million accrued to beneficiary C. Drogooul in foundation accounts was never received due to scheme detection.

PAYMENTS FOR THE BENEFIT OF CHRISTOPHER P. DROGOUL & FAMILY
(COUNTS 163-169, 185-192, 250-253)

DATE	AMOUNT	DESCRIPTION	SOURCE
5-18-89	5,472.82	PAYMENT FOR C. DROGOUL ROUNDTrip AIRFARE FROM ATLANTA TO NEW YORK TO PARIS	ENTRADE
5-19-89	8,408.36	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (CT 189)	BNL-ATLANTA
6-14-89	6,189.98	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (CT 190)	BNL-ATLANTA
6-14-89	12,610.00	PAYMENT FOR CASH ADVANCES TO C. DROGOUL	ENTRADE
7-11-89	3,867.90	PAYMENT FOR C. DROGOUL ROUNDTrip AIRFARE FROM NEW YORK TO PARIS	ENTRADE
7-21-89	10,463.39	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (CT 191)	BNL-ATLANTA
7-21-89	6,384.35	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (CT 192)	BNL-ATLANTA
	255,165.21	1989 DISBURSEMENTS FROM C. DROGOUL FUNDS	ENTRADE/LHM ADVISORS S.A. DLT MANAGEMENT
	----- \$424,633.86 -----	TOTAL FOR 1989	

PAYMENTS FOR THE BENEFIT OF CHRISTOPHER P. DROGOUL & FAMILY
(COUNTS 163-169, 183-192, 250-253)

DATE	AMOUNT	DESCRIPTION	SOURCE
4-8-89	\$ 8,000.00	PAYMENT TO ARCHITECT DENSON FOR WORK ON C. DROGOUL'S HOME (OA 116)	ENTRADE
4-12-89	4,079.40	PAYMENT FOR C. DROGOUL & FAMILY FOR ROUNDTrip AIRFARE FROM ATLANTA TO MARTINIQUE, FRENCH WEST INDES	ENTRADE
4-21-89	18,104.14	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (CT 187)	BNL-ATLANTA
4-28-89	7,000.00	PAYMENT OF K. WASHAM PERSONAL CREDIT CARD FOR HOTEL AND MEALS ON MARTINIQUE TRIP (OA 125)	ENTRADE
4-28-89	4,699.17	PAYMENT OF K. WASHAM PERSONAL CREDIT CARD FOR HOTEL AND MEALS ON MARTINIQUE TRIP (OA 126)	ENTRADE
5-1-89	7,500.00	PAYMENT TO ARCHITECT DENSON FOR WORK ON C. DROGOUL'S HOME (OA 127)	ENTRADE
5-17-89	10,345.40	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (CT 188)	BNL-ATLANTA

PAYMENTS FOR THE BENEFIT OF CHRISTOPHER P. DROGOUL & FAMILY
(COUNTS 163-169, 189-192, 250-253)

DATE	AMOUNT	DESCRIPTION	SOURCE
1-6-89	\$ 3,511.44	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (OA 84)	ENTRADE
1-6-89	3,901.04	PAYMENT TO CARRIAGE HOUSE FOR FURNITURE FOR C. DROGOUL'S HOME (OA 85)	ENTRADE
1-17-89	6,468.00	PAYMENT TO THE GABLES FOR ANTIQUE FURNITURE FOR C. DROGOUL'S HOME (OA 91)	ENTRADE
1-26-89	9,064.37	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (CT 185)	BNL-ATLANTA
2-12-89	4,762.00	PAYMENT FOR C. DROGOUL ROUNDTrip AIRFARE FROM NEW YORK TO PARIS TO GENEVA, SWITZERLAND	ENTRADE
2-15-89	2,078.75	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD	ENTRADE
3-7-89	8,000.00	PAYMENT TO ARCHITECT DENSON FOR WORK ON C. DROGOUL'S HOME (OA 106)	ENTRADE
3-28-89	18,558.14	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (CT 186)	BNL-ATLANTA

PAYMENTS FOR THE BENEFIT OF CHRISTOPHER P. DROGOUL & FAMILY
(COUNTS 163-169, 185-192, 250-253)

DATE	AMOUNT	DESCRIPTION	SOURCE
9-23-88	\$ 15,000.00	PAYMENT TO ARCHITECT DENSON FOR WORK ON C. DROGOUL'S HOME (CT 168)	ENTRADE
9-23-88	5,111.54	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (OA 64)	ENTRADE/ BNL-ATLANTA
10-27-88	15,000.00	PAYMENT TO ARCHITECT DENSON FOR WORK ON C. DROGOUL'S HOME (CT 169)	ENTRADE
10-31-88	3,563.41	PAYMENT FOR RENTAL CAR FOR C. DROGOUL FAMILY (OA 66)	ENTRADE
10-31-88	5,425.53	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (OA 73)	ENTRADE/ BNL-ATLANTA
11-22-88	362.25	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD	ENTRADE/ BNL-ATLANTA
11-22-88	6,442.07	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (OA 75)	ENTRADE/ BNL-ATLANTA
12-12-88	4,194.33	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (OA 82)	ENTRADE
	405,286.26	1988 DISBURSEMENTS FROM C. DROGOUL FUNDS	ENTRADE/ LHM ADVISORS S.A.

	\$698,491.35	TOTAL FOR 1988	

PAYMENTS FOR THE BENEFIT OF CHRISTOPHER P. DROGOUL & FAMILY
(COUNTS 163-169, 185-192, 250-253)

DATE	AMOUNT	DESCRIPTION	SOURCE
5-18-88	\$ 35,000.00	PAYMENT TO ARCHITECT DENSON FOR WORK ON C. DROGOUL'S HOME (CT 164)	ENTRADE
5-18-88	36,000.00	RENTAL OF SUMMER HOME IN SOUTHAMPTON, NY FOR THE C. DROGOUL FAMILY (OA 50)	ENTRADE
5-18-88	5,400.00	DEPOSIT ON RENTAL OF SUMMER HOME IN SOUTHAMPTON, NY FOR THE C. DROGOUL FAMILY (OA 51)	ENTRADE
5-26-88	8,000.00	CURRENCY FOR C. DROGOUL (OA 53)	ENTRADE
7-6-88	20,000.00	PAYMENT TO ARCHITECT DENSON FOR WORK ON C. DROGOUL'S HOME (CT 165)	ENTRADE
7-27-88	8,343.13	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (OA 55)	ENTRADE/ BNL-ATLANTA
8-2-88	20,000.00	PAYMENT TO ARCHITECT DENSON FOR WORK ON C. DROGOUL'S HOME (CT 166)	ENTRADE
8-19-88	25,000.00	PAYMENT TO ARCHITECT DENSON FOR WORK ON C. DROGOUL'S HOME (CT 167)	ENTRADE
8-26-88	7,578.33	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD (OA 56)	ENTRADE/ BNL-ATLANTA

PAYMENTS FOR THE BENEFIT OF CHRISTOPHER P. DROGOUL & FAMILY
(COUNTS 163-169, 185-192, 250-253)

DATE	AMOUNT	DESCRIPTION	SOURCE
6-28-87	\$290,000.00	PAYMENT TO PURCHASE HOME FOR C. DROGOUL ASSISTANT AT BNL- ATLANTA (CT 250)	BNL-ATLANTA/ LHM ADVISORS S.A.*
9-9-87	60,000.00	PAYMENT TO ARCHITECT DENSON FOR WORK ON C. DROGOUL'S HOME (CT 251)	BNL-ATLANTA/ LHM ADVISORS S.A.*
11-25-87	60,000.00	PAYMENT TO ARCHITECT DENSON FOR WORK ON C. DROGOUL'S HOME (CT 252)	BNL-ATLANTA/ LHM ADVISORS S.A.*
	213,261.53	1987 DISBURSEMENTS FROM C. DROGOUL FUNDS	ENTRADE/ LHM ADVISORS S.A.
	----- \$623,261.53 -----	TOTAL FOR 1987	
3-9-88	\$ 60,000.00	PAYMENT TO ARCHITECT DENSON FOR WORK ON C. DROGOUL'S HOME (CT 253)	BNL-ATLANTA/ LHM ADVISORS S.A.*
3-31-88	12,784.50	PAYMENT OF C. DROGOUL PERSONAL CREDIT CARD FOR TRIPS TO NEW YORK, FRANKFURT, AMSTERDAM, GENEVA, AND AMMAN	ENTRADE

* See 6-4-87 transfer of \$957,167.66 from BNL-Atlanta to LHM Advisors S.A.
account in Luxembourg (CT 163)

CONFIDENTIALRESEARCH OFFICE

Tape I

A meeting of the International Advisory Board in Madrid 4-5 May, 1987. The meeting in Madrid of the International Advisory Board allowed for conducting wide panoramic, view, of the principle economic political problems of the moment, and of scenarios which are developing on a world level. This panoramic view is integrated - to supply a more complete picture - with the evaluations formulated by Henry Kissinger during the encounter with the BNL delegation and the observations made by Mr. Kissinger and his collaborators during a luncheon meeting.

Here are the principle topics discussed:

East/West Political Relations. The analysis made by Kissinger is of great concern and very negative. The current Reagan politics towards the USSR - he says - are backed up by the Republicans and Democrats for various reasons: the fact is worrisome because intelligent Democrats and intelligent Republicans, who see the danger in this dialogue, are becoming . . . extinct.

Kissinger's analysis begins with this consideration. Gorbachev is certainly a new phenomena but in the USSR all new heads of state when they reach power are defined "new phenomena." The same occurred for Stalin. On the part of the West, there is always the desire to see something new in the USSR, to bet that something will change. Gorbachev did not see the "purges of Stalin" he was a child at the time of the war, that his life and

Source: BNL International Advisory Board
Minutes

his ascent to power all occurred within the communist party, in the shadow of the Andropof secret services. He who thinks that Gorbachev wants to question communism is committing a very grave mistake.

Brezhnev and Gromiko were not for us Americans, very formidable opponents. In the dialogues I had with Brezhnev - explains Mr. Kissinger, - Breznev gave me the impression of being a Head of State, who was rather confused and awkward and fearful of entering into a tight confrontation with the United States. Gromiko, on his part, could be every once in a while, a constructive partner in a dialogue. He was not excessively ambitious; he knew very little of the world, except for the United States. The United States was his sole strategic preoccupation. In 1972-73 the United States had therefore one great opportunity to conclude relationship of a broad scope with USSR, from a position of force and prestige. Watergate and our mistakes have upset that possibility.

We live now in a strange and dangerous situation for the West. Gorbachev has understood that the Soviet system is not competitive with the others, not even with the Chinese. He is therefore aiming towards efficiency and towards individual responsibility. But all this must not be confused with democracy as we intend it. It is not understandable why the West wants to have in the USSR an efficient rival rather than an inefficient rival.

In my dialogue with the Kremlin, I was impressed by the fact that the heads of the USSR today make critical analyses which are very punctual and strong on that which does not work in their

country. If we were to do that we would be accused of being viscerally anti-communists. But when I asked them how they could reconcile central planning with individual incentive, I did not get a reply. They say: we do not know, we will see. But in the history of the USSR there has never been decentralization and there is not such thing as single individual enterprise. The USSR is an empire not a country. I do not believe therefore, that the USSR with Gorbachev can change deeply. And it is not in the interest of Europe and of the West in general - to reinforce the USSR and reinforce Gorbachev unless the latter changes the foreign politics of the USSR.

This the point. From this point derive as Mr. Kissinger says - my preoccupations. Gorbachev could also be a pacifist, but in order to govern he must be backed up by the military and the KGB. He must justify to them his new orientation in internal politics. He therefore cannot advance proposals which can weaken these two forces on a world political scene, apart from and beyond whatever his own personal opinions are. Gorbachev tends therefore to say: let's gain time with regard to the U.S. and in the mean time let's reinforce ourselves internally.

The West has not matured proposals towards the USSR. The reactions of the West are acceptance and applause, especially on the part of Europe. The only exception is Thatcher. The fact is that in Europe, for Kissinger, foreign politics are guided by two principles: (1) appropriate oneself of the ideas of the opponent and define oneself as wise, (and this is what is occurring today

with regard to the USSR) (2) do not look beyond the limits of the political mandate and attempt therefore a momentary success with public opinion.

The consequence is this, the USSR will reach results thanks to the weaknesses of the West. Nothing traumatic in the short term. But what will occur 3-5 years from now? The USSR will continue along its way and it will always be stronger. And the West will always remain at the window. And one needs to keep in mind another fact. The Soviet regime may disintegrate for internal reasons not because of pushes or forces coming from outside.

Kissinger adds: I have always backed President Reagan because the alternatives were worst. But after the farce encounter of Reykjavik, in harmony with Nixon, I have publicly separated myself from this. There is no seriousness in having made believe that the problems are solved with regard to world thermo-nuclear confrontation. And that all this is resolved in three hours of discussion without any preparation whatsoever. It's absurd. The insuccess was a given but in that case it became a principle: the possibility of abolishing nuclear arms. It is a topic which may be pleasing to the little professors, to the so called experts, but not to those who reason with the reality of facts. If there is an agreement of this kind between USA and USSR, there would be an immediate race to hide nuclear arms, with mutual distrust, while in the same time it would be necessary to "verify" the attitude of other countries that do have nuclear arms as for example India and Pakistan. The two super powers would however need to keep a

certain minimum number of nuclear arms compatible with their defense necessities. And this is more or less the current situation in absence of a star shield.

This takes us to the double option zero. For Kissinger the agreement will be reached, within the year Gorbachev will go to Washington and in 1988 Reagan will be in Moscow. But to speak of equality on the level of conventional arms means not knowing European history. Even this agreement is, in practice, a deceit.

Europe is at the center of attention, also because Gorbachev has changed objective. In Reykjavik he was asking the United States to abolish "the space shield", then he changed direction and now he is putting in difficulty Europe, with the two options zero.

But there is more. The Soviets could have chosen if they wanted a real agreement, the route of the silent technical negotiation. When I went to Moscow, says Kissinger, the heads of government asked me which channels could be exercised in this since, in the dialogue with the United States. But Washington remained waiting[? I am not sure of Italian expression 'Rimanere Al Palo' which I cannot find in dictionaries.] and Moscow chose the route of the public channel, of the public show, which in this field is absurd. It only serves for propaganda purposes, it serves to dissociate the Atlantic allies from the United States, and to not reach valid conclusions and serious agreements.

Another aspect to keep in mind: China. There is the risk of compromising, with this US-USSR agreement, the politics which the US has developed toward China. This we will also be giving space

to the Japanese who has progressively changed their attitude. (This we will talk about further on).

One historical mention. In the 40s the West was saved by the impatient of Hitler, who did not wait to be completely prepared militarily. The USSR is always a patient country. Therefore, the double "option zero" does not light fires of war, but it gives space to Gorbachev to carry out his own strategy, which is based on reinforcement, even military, of the USSR and on the division of countries of the West.

Europe, in the opinion of Kissinger, should reenforce its political and economic and military unity. But this is a wish, more than a concrete possibility, in light of the evolution of world relationship.

Kissinger says: Reykjavik had for the Russians the objective of isolating the United States from Europe (topic of special shield) with the tacit cooperation of the Europeans. Today, the USSR is isolating Europe, with the tacit cooperation of the United States, because it is rendering Europe De Facto a potential battlefield for conventional arms. Here is the result of the incapacity on the part of the West to think, organize and conduct a strategy towards the USSR, having the objective of making agreements, but being the leader in the discussion, that is not leaving to Gorbachev the possibility of taking initiatives.

Kissinger sustains that at medium range all of this will provoke negative reactions towards the US on the part of traditional allies of the US. The areas public opinion favorable

to the US, will feel betrayed. And also Mr. Reagan, elected by those who wanted to give shine to the US foreign politics, will be hit in his image. The Americans will not understand a president who as far is known, wants to tour the United States accompanied by Gorbachev to demonstrate how he has established peace in the world by accepting the politics of the USSR. Reagan was not elected in order to reach this objective!

Raymond Barre shares this diagnosis and adds: after Reykjavik, the USSR aimed its attention on western Europe, concentrating its efforts with regards to Germany, who feels today a particular attraction towards the East, towards all the countries of the Comecon. Europe should react in a unitary fashion, coordinating its efforts for common defense. In a contrary case, there is the possibility of a France-Great Britain alliance because these are the only two countries to have nuclear arms. And these two countries can become poles of attraction for the other European countries who feel undefended.

Points of Crisis. In the diagnosis of Kissinger (which took place in a private encounter) the United States finds itself in front of one of the more delicate phases of its political-economic history of the last 15 years.

The problems are: The USSR (the foreseeable result of the development of relationships is the birth of further tensions with allied countries in Europe and in Asia); Japan (defined the more delicate in general terms); Mexico.

On an internal USA level, Kissinger observes:

- Reagan will reach the end of his mandate and he will still have problems, because of the parliamentary inquiry which is going on, but he will not have to leave the White House. Americans are ready to justify help given to the "Contras"; they were always given. [unclear]. They are instead contrary to a dishonesty on the subject of terrorism. Reagan is physically capable of concluding his mandate.

- It is not possible to make legitimate forecasts on the political elections of 88. The democrats do not have a leader. Hart is not credible (his recent private affairs have given him a further blow); the candidates of Italian origin, like Cuomo, do not have any possibilities, because there is always some journalist who is able to find a blemish in their family histories. If the United States are not hit by an economic crisis (always possible, we will talk about that later on), then the Republicans will be able to keep the lead with the current vice-president Bush, which is the more solid of the candidates currently.

- This economic situation is delicate: The dollar in short term will decrease further, the yen will appreciate further. The danger of a return of inflation is not to be excluded. Three can be considered the provoking causes at a world level: 1) the fall of Iraq, with the victory of Iran and with a subsequent new shock in the prices of petroleum, pushed by the wind of Islam; 2) the failure of American banks, for example that of Bank America with the subsequent necessary saving action by the Fed and injection a

strong liquidity within the country and 3) the insolvency declaration on the part of Mexico.

. . . .

At this point the discussion takes on a general economic nature. And here are therefore, some of the diagnoses discussed.

World Economic Scenario. Kissinger does not believe that in the future there will be the same free exchange that there is at current levels. There will be economic blocks with trade between the blocks, Europe, the US and Canada, and countries of South America. Protectionism in the US is a fact which is becoming always more present, also towards Europe, backed up by unions, and vast industrial sectors.

The perspective is that of stagflation: and it is possible to speak about an imminent recession for a series reasons both political and economic. The potential for crises are many and any one of them could all of a sudden burst.

Says Kissinger: We will have a recession within the next 4 years. I not sure when and I don't know of what scope. But the recession is inevitable, because the countries of the West are living at a higher level than their possibilities. There is too much finance with respect to the growth of real economy. On the boards of many American companies, they are deciding today to remain liquid, to limit the investments and this is a signal of

recession that is knocking at the door. Even in Europe there is a tendency of this nature, even if less accentuated.

United States - Japanese Relationships. These represent the most delicate problem at the current moment and even on a long term prospective. Says Kissinger: The Japanese today speak of Americans as we speak of the Russians, that is, of a country that knows how to do a few things, but is very behind in general terms. Therefore, the Japanese consider today Americans as already bypassed from a technical point of view. The economic growth becomes in this sense, the way of conducting a psychological war on the part of Japan toward the United States. The Japanese want to demonstrate that they are ahead of the United States, that they are "beating us economically", says Kissinger. The recent visit of Nakasone in Washington is utilized by the Japanese as a certificate of a victory by them.

For Kissinger, the quality of the United States production is no longer competitive in many sectors with the quality of Japanese production.

Two aspects to be considered by Kissinger, in talking about Japan.

1) The Japanese do not have a tradition of cooperation with other countries. They want to resolve their own problems by themselves. The Japanese in the 90s will construct their military defense according to specific objectives and not in cooperation with United States. They will construct infrastructures for

defense in an autonomous manner. Their expenses for defense, which will increase, will not change the economic strategy of the country. By the year 2000 Japan will be the first economic power of the world;

2) Any decision on the part of the Japanese is reached through a large census internally. Whether there be in power Nakasone or another leader (there is a foreseeable rotation by October) the issue does not change. No Japanese Prime Minister can follow in autonomous fashion an agreement with another country and impose it internally. This is why the recent encounter Reagan-Nakasone is not significant for the purposes of general economic politics. The subject of interest rates which was raised at that time, has no depth to it. What the United States wants Nakasone is not in the position of conceding.

The Japanese, as is well known, has made heavy financial investments in the United States, they have acquired companies in the United States. But they move into the United States the less sophisticated technologies; the best ones they keep in Japan. Kissinger does not believe that the Japan would "retreat" from their financial investments in the United States, in the light of the losses that they have been subjected to, due to the fall of the yen (the presence of the Japanese, as buyers, in the offer of these days of a public US shares is a confirmation of this forecast) on the other hand only now are the Japanese becoming aware that there is a European alternative for their investment.

Japan will always become more important on the financial

level. The market of Tokyo will become fundamental (unfortunately adds Kissinger) but the Japanese - sustains Kissinger - can not isolate themselves from the United States as far as financial relationships are concerned.

Will we witness a change in world leadership? Not within a short amount of time, responds Kissinger. But on a long term, yes, especially if the United States and Europe will not identify areas of substantial agreement.

Kissinger cites a strange episode as a confirmation of his diagnosis: The Japanese present to American companies offers of acquisition of airplanes, in response to the American solicitations to reduce the commercial deficit and these offers to acquire airplanes are correct only in matter of principle. In practice they are presenting requests that are so sophisticated (airplanes that must be able to land in a few meters and with absurd temperatures on the runways, etc.) that they appear beyond any technical ability of satisfying them. It is an example of the psychological war of which we have been speaking.

Economic situation in the United State. The diagnosis developed by Walter Heller is substantially optimistic. His conclusions:

- 1) The United States economy will grow at a rate of about 3% in 1987;
- 2) Inflation will settle at a round 5%, with an increase with respect to the current level, but not excessively;

3) The increase in the interest rates will be reasonably contained, unless there is a verification of an attack on the dollar;

4) The fall of the dollar will stabilize after a period of adjustment which will not generate a general crisis.

In the past weeks there has been discussions about the increase of the GNP registered in the USA during the last quarter. There has been talk about an accumulation of reserves/stores, especially in the automobile industry; but the reality is that the economy is still "pulling" enough because there is a "pull" for internal demand. Families, for fiscal reasons, have increased their availability to spend and from here the proposal to review the reform, to impose taxes on alcohol, tobacco and gas.

Inflation will not pick up force, beyond the indicated level, because the work market is in a situation of calm. There is no foreseeable sharp salary increases. There is an excessive productive capacity and therefore there is no danger of overheating. History teaches that until the moment in which the utilized productive capacity does not exceed 80%, inflation remains under control.

The interest rates will follow this contained trend of the inflation. Volker is conducting an action which is slightly restrictive. The Fed will be able to increase in a limited fashion, during the course of the year the discount rate, saying they are adapting to the market, not preceding it or orienting it.

The USA federal balance is under pressure. The Congress, in

contrast with the Administration, wants to increase taxes. The White House asks for increases in military expenses. However, a reduction in the budget deficit is foreseen, from the current 120 billion to values well under 100 billion. Reagan could change fiscal politics in the directions indicated before, applying Churchill's motto "I will not retreat that which I have said, because it was justified by the situation of the moment in which I had said it, and by the information that I had in those circumstances". The politicians have the right to change opinion!

As far as the foreign investment in the USA is concerned, Heller maintains that it is improbable that the Japanese will refuse to acquire still more Americans public shares, corresponding to real profits of 4%. A true defense of the dollar also presupposes an increased coordination of monetary politics at an international level, which is difficult. The encounters in May, at the OCSE headquarters and in June in Venice could possibly lead to something new. This is a wish.

The USA problem is this: Production increases by 500 billion dollars a year: internal consumption increases by 700 billion.

There is, in the diagnosis of Heller, the ascertainment of an increasing interaction between the world of finance and the world of production: if there is, therefore, a certain production increase and if inflation does not get out of hand, then therefore, the tension in the exchange can be avoided without drama.

On this scenario, various were the discussions, with questions and issues raised.

Lord Ezra: He sees the danger in assuming and spreading too optimistic positions, because they risk halting the efforts that Europe and Japan need to undertake for a general readjustment.

Pierre Ledoux: He does not see solutions for the USA deficit in foreign trade. A dose of protectionism is probable. But will it be sufficient? He is doubtful. Then it will not be a drama if the dollar decreases still. But there will be a drama if these crisis points begin to explode. A drama that will involve also the financing of the USA balance deficit because the international financial markets are very nervous. At the current state of events, the financial markets are doing o.k., in the sense that liquidity is abundant. New operating possibilities are foreseeable. The real economy is however doing less well and this is the ongoing contradiction. An immediate crisis of the dollar would provoke repercussions on these markets. "We must question ourselves on this perspective and act accordingly." He observes.

William Takasaki: He fears that inevitably there will be a further increase in the yen before the end of the year. The developments will depend on the capacity of Japan to stimulate internal demand. But Japan, he sustains, has strong problems, with specific reference to the fiscal ones.

Raymond Barra: He is not sure that the USA will be able to reduce the balance of trade deficit without having the dollar decrease even more. The USA ask the other countries to follow policies complimentary to the reduction of the dollar. But it is not possible without the USA taking action also in terms of

internal economical policies. He does not share the theory of the "locomotive", to pull along a revival in Europe. But Europe can certainly do more. It is not in its interest to accept the progressive slowing down of the USA economy: Europe must roll up its sleeves, with Germany in the forefront. The European economy has not invested in a adequate manner, especially in the field of new technologies. And from here the necessity to adopt a mutual policy to increase the expenses for investments (for example, fiscal reduction) and to stimulate internal demand.

Hans Merkle: The government of Bonn is not willing to stimulate the German economy, possibly anticipating fiscal maneuver foreseen for the end of 1988. Germany will have this year an increase of 2-2.5% ca. In the last two years the rate of salary increase in Germany has been around 3%, with some points reaching 5%, in the presence of zero (0) inflation. From here derive the stimulations to internal demand and not from desired fiscal maneuvers!

The French situation and Europeans problems. The conversations developed up until now confirm how every mention of the economy exceeds today national boundaries; from the USA, to Japan, to Europe.

Raymond Barre has developed a diagnosis of the French situation making some rather worrisome/alarming points. The industrial production registers a zero (0) increase in the last

year, unemployment increased, the rate of investment is low, the companies better their budgets, reinforcing their own means, but not looking towards tomorrow in terms of investment. The productivity of industry has declined as a consequence of the strong decline in investments which has occurred in the last years. Public deficit remains very heavy, due to the requirement of financing of social security. In summary, the French economy is not very positive, with respect to what is going on in Germany, Italy and Spain.

The coordinating of economic politics and monetary politics amongst the various industrialized countries is a necessity and Barre has hopes for the "summit" at Venice, but he does not illvise himself.

As far as the process of privatization in France, it is possible to say that having begun this year, it is enjoying a great success. S. Gabin e Paribas have become privatized and other big companies will follow in the first semester. At the end of '87 half of the process of privatization, which involves sixty-five companies, will have been completed. It is possible that also the insurance companies will be privatized, but the government has decided to better, privatizing them, their structures in order to reinforce them adequately.

(It is possible to remember that Barre, in the preceding encounter, had advanced some reserves on the topic of French privatization, concerned above all with the fact that at the offering of shares to privates, this did not correspond to an

adequate request, for lack of available liquidity at a family level. However, this eventuality, at the actual state of facts, did not verify itself).

The French political situation presents these characteristics according to Barre 1) President Mitterrand is enjoying a favorable situation within the "co-habitation" in progress; the Socialists have won a few local elections; 2) The problem of social condition will be the one that will dominate the next electoral campaign. Public opinion is now looking for a "mix" between market economic and social solidarity to face the risks of this period of change, risks that involve above all, unemployment. The rediscovery of market economic is not separate from a attachment to the principles of social solidarity: free market is too important to be left on its own!

As far the path of a European community there will be difficulties, says Barre: it is necessary to enhance the common agricultural policies in order to reduce the increased rate of agricultural expenses, to stimulate other expenses, above all in the fields with advanced technology. The Community should, then, finance the necessary productive reconversions in Spain and Portugal, new members of the community.

The budget deficit of the CEE (European Economic Community) is 5 billion units of count. It will be necessary therefore, to increase the contribution of the member states, with an increased share drawn on the advalorem tax. [I.V.A.]. But there is resistance on the part of the English, German and the French. The

financial problem remains therefore open and it is extremely delicate.

Text illegible [Memo that says, only mention of Iraq, p. 17.]

Iran - Iraq Conflict

The opinion of Kissinger is in part changed with respect to his observations on this conflict, on its result, on its outcome and on the consequences within a world context. Once he took it for granted that there would be a sure Iranian victory. Today he "I give the victory of Iran over Iraq at 55%" and recognizes "I've changed my percentage with respect to previous evaluations." And he explains: it is necessary to take into account that a very strong victory of Iran would be a disaster for the West, because it could increase the price of petroleum and start a new inflationary shock at a world level. (A rather malicious question that could be asked is: will the United States act to delay the end of the war, to give a hand to Iraq, after having attempted to "approach" as it is well known, the so called "moderate" groups of Iran?)

At medium term, however, Kissinger believes that the relationships with Iran can be better. Iran 'til now has not taken full advantage of the "opportunity" of Irangate: evidently Iran has compromising documents for the Reagan Administration, but it has not utilized them. Why?

Kissinger feels that in Iran a new management class which is less fanatical but not less religious is coming to light. This is

a topic that concerns, as was said, the medium term. On the short term, it is the interest of the West, continues Kissinger, that the war does not acquire traumatic conclusions, because the consequences for the West would be very heavy.

The "wind of Islam", in the case of a strong victory of Iran would expand not only into Saudi Arabia but also into Egypt (where the "black Muslims" are in the increase), and above all in Turkey, a country that has been strongly secular but where the Muslims are beginning to progressively gain foot again. And Turkey is a stronghold for Nato. On the other hand, a weak Iran would not represent a valid bastion against the USSR in terms of global strategy.

Other discussions in the course of the meeting of the board concerned:

1) Situation of Great Britain. Lord Thorneycroft pointed out that besides the statistics (the topic is in particular valid for the United Kingdom) it is necessary to understand and evaluate the psychological climate of the country in question, to understand where it is heading, which are the avenues it is following. Here, therefore, the indications concerning Great Britain.

a) Inflation was maintained low, economic activity is good;
 b) There is certain trust and a certain optimism with a possibility for Ms. Thatcher to be re-elected when they will be new elections probably next June.

c) There is a conviction that the social model is changed, there is less rigidity in the work sector, but to make everybody

understand this, is not easy;

d) Only one big black point: the strong unemployment that, in relationship to the configuration to the activities that are meant to pull (for example an advanced services market) is not being reabsorbed by economic growth.

Ms. Thatcher - explains Lord Thornerycroft, is possibly more famous abroad than in Great Britain, but also the British who do not love her very much, recognizes her iron willpower. She is the person whom all indicates to be the only one who can deal with Gorbachev.

Substantially Great Britain is a country with a good balance that increases its investments. Great Britain depends a lot on abroad and therefore on the world trade: its managing class believes in free exchange and it is contrary to any form of protectionism. There is, therefore, concern for the difficulties which are manifesting themselves in this field at an international level.

2) Situation in Spain. Enrique Fuentes Quintana sustained that the economic situation in Spain is good on at a real level: there is a strong growth in the productive activities, a sustained internal demand, a high level of investments (plus 14% in real terms last year). The number of employed has increased by 300 thousand units in the last year, even if youth unemployment remains at approximately 40%. But there is a differential inflation with concern to the EEC averages, inflation which is the more preoccupying factor and which the government intends to cure;

this is the openly declared priority choice.

This inflation has been in economic terms, solicited by the application of the advalorem tax, [IVA] but it is structurally fed by an excess in public spending. This spending is due to social measures which were introduced before the Gonzales government: for example, it is sufficient to work for a few months to have the right to welfare in case of unemployment and this assistance lasts for an undetermined amount of time. So this is nothing more than an incantation of an assistance type social structure.

The recent monetary measures, of a rather restrictive nature of the Central Bank of Spain, created mainly through direct controls on the increase of internal credit, have reduced the liquidity of the system, and have provoked a dramatic increase in the rates within the system. The interbank rate, for example, increased in a few days by approximately 8-10 points, reaching now about 23-24% (in real terms 15%).

The problems of today and of tomorrow in Spain are:

1. To moderate public expense in order not to supply reasons for an increase in inflationary tendencies. In the light of a public deficit, which is less in relationship to the gross national product (GNA) than the Italian one, Spain has, however, an internal savings which is less elevated than the Italian one. From here the necessity of appropriate measures to redesign the growth of public expenditure.

2. To renew the agreements with the unions in order to maintain contained increase in the cost of work in a contained

manner, and, therefore, not place inflationary stimuli from this.

3. To reduce the excesses of demand (public and private) which provokes today a strong deficit in the balance of payments, with increasing pressures on the exchange rate, within the context of the European community.

1987 opened in Spain with a certain anxiety. In 1986 the drop in the price of oil and the drop of the dollar had favored the economic growth even in Spain; but now the internal problems are coming to the forefront.

In conclusion, it is possible to say that Spain is living a period of "boom" as in the 60's as far as economic activity is concerned; but along with this "boom" there are pressures on the monetary level which need to be carefully controlled in order to avoid lack of equilibrium.

The situation in Brazil and the problems of indebtedness:

Roberto De Oliviera Campos has supplied these indications:

Brazil: After an agitated year, Brazil finds itself facing again a very high inflation. It was, for various months, at zero level, but this was only thanks to a policy of the "freezing" of prices and salaries, followed by a freezing of exchange rates. The "freezing" does not represent an economic policy; experience anywhere can teach this. And, in Brazil also, they have, therefore, developed a very broad "black-market," with prices that have gone through the roof and with the situation that has slowly become unsustainable. In the meantime, they have verified an

"explosion of nationalism" which has discouraged foreign investors. "A nationalism" tied to pride for the supposed successes of the battle against inflation and in economic growth.

There has also been a decrease in the flow of financing on the part of foreign banks.

The Brazilian government, facing the failure of the action taken, has proclaimed it did not want to pay the debt, also for demagogic reasons; it did not intend to deal anymore with the Monetary Fund. (IMF). This rigid position has somewhat softened, measures have been adopted, and the situation is slightly improved. But there is no doubt that it remains still extremely difficult: "We are facing a new Brazilian disaster," says Campos.

Brazil is the country in South America which at the moment is watched with the greatest preoccupation; but, in relationship to other countries in this area, it presents a productive structure which is more diversified. There is space to maneuver for industrial restructuring, to attract again foreign capital: the most important thing is to reduce this wave of resurging nationalism. The escape of capital is not as strong as it used to be.

There is to, hope, says Campos, that the government applies economic politics that are more appropriate, opening again its negotiations with the World Bank in order to discuss more concretely the perspectives of the country.

This topic concerns in a way all of the countries of Latin America which are called to: (1) Maintain realistic interest

rates; (2) Maintain also realistic exchange rates; and (3) Reduce public presence which is always an inefficient presence. This "golden recipe" however, has not been applied also by the countries of the OCSC and remains, therefore, of difficult application in the Latin American countries. The possibility that the Japanese give a contribution as far as the debt problem is concerned, is beginning to form. It could be a positive prospective, also, in light of the fact that the "Baker plan" practically did not work.

Another hypothesis is that of "debt to equity swap": it can represent an instrument, even if partial, for a solution to the problem of debt. In Brazil there was a law, in 1984 and 1985, that favored this transformation of debt in shares of Brazilian companies; subsequently the Central Bank suspended rules; today there is a new project on this subject to which several objections are being applied, with reference to the pressure of the internal monetary situation which the application of this method provokes, let alone the fear which is spreading in all Latin American countries, that the foreigners acquire with strong discounts, debts in order to introduce themselves in local productive situations.

It is the interest of the international financial community, says Campos, to stimulate these countries so that this instrument is utilized within the framework of measures to adopt in order to progressively disengage the big debt bomb under the reality of international economics.

The observations of Kissinger on the subject of debt is this: the American banks should make an effort in their own interest to

accept a cut in the capital line of debt. But the general economic difficulties and the fiscal novelties (lack of incentivitation) do not favor, at the current time, a maneuver which, however, appears necessary within the framework of a restructuring of the situation, which is indispensable and that now the banks accept as a matter of principle. The problem of debt remains one of the most delicate "points of crisis" of the current economic situation.

Kissinger ends by saying that he is in favor of the idea already stated, of a "marshal plan" in favor of the indebted countries. But he sustains-in reply to a question-that he is not available to take on in first person an initiative of this kind. A new marshal plan should, amongst other things, be based on coordinated actions on the part of the U.S., Japan, and European countries: a difficult perspective in light of the tensions occurring in international cooperation, also on an economic level. The initiative of Japan, which we have mentioned before, is welcome; but it is isolated and it does not represent a solution.

Enclosure

Encounter with the Banco di Bilbao

The encounter allowed for an exchange of ideas on three topics: (1) Forecast for the year 2000 in banking activities; (2) an organizational plan to support the new way to "do banking;" and (3) the problems of foreign trade and the role of banks in the new context of exchanges.

Here are the principle indications supplied by the representatives of the Banco di Bilbao with specific reference to their bank.

1) The Bank in the Year 2000: In the coming years two characteristics will become dominant: (a) The customer will be much more sophisticated, he will require an always increasing quality of services offered; (b) The market will become increasingly free: there will be an increase in interdependency between the countries, the global market becomes a reality, and competition will become stronger.

The answer needs to be identified in giving life to a large conglomerate, in which banking activity will be only one part.

To give substance to this reply, two choices are imposed: [What follows in the Italian text does not relate to what is being said. There appears to be something missing]. It is difficult, amongst other things, that the Chinese, within a very short amount of time, be able to "center" all the objectives that they have proposed for themselves. The path undertaken by China will not be all downhill.

The Countries of Latin America

If, in the countries of Latin America increased tension explodes, with reference to the problem of debt, these countries will attempt to tighten relationships with the Japanese, the only ones that today are demonstrating themselves available to take on obligations tied to the problem of international debt. This fact certainly reduces the influence of the United States on these

countries and it is a prospective which needs to be kept in mind.

Mexico

The problem of Mexico is extremely delicate. At the current time, there aren't any indications on who will be the candidate for presidency of Mexico, and so it is not possible to make any political forecasts on the policies of the new president towards the U.S. It is certain, however, that a grave political crisis is in sight in the country.

On the other hand, as already as has been observed in other occasions, Mexico does not have state, military, etc. institutions capable of sustaining the country: it is a confused situation, and extremely delicate, which must conduct the United States to a careful evaluation of the actions to be adopted with concern to this country at its own borders.

(b) Utilize the banking network (1,400 cashier windows; in Spain, the banks have (available) 30,000 cashier windows to sell new products, even insurance products.

(c) Progressively restructure the network of banking windows (operation which is necessarily going to be slow) with regard to the requirements already mentioned, and with the objective of increasing activity, therefore, productivity.

The internationalization must continue to be stimulated with the standardization of services. The bank is counting on the capacity of the branch manager. The international vocation is based on two suppositions: (1) giving support to Spanish operators on foreign markets and (2) being present on large capital markets. The definition is this:

"We need to be an international bank, not a national bank with international customers."

To better reach the objective of internationalization, we need to solve two problems: (1) Defining the quantitative and qualitative dimension of our presence abroad; and (2) know how to develop the synergies between domestic customers and international customers.

In Spain, at the current time, the product is more important than the customer, in the sense that-keeping in mind public deficit and competition of the State - it is necessary to identify specific products, which can interest the customer amongst these in the forefront is the insurance product.

On the other hand, only identifying the correct product is it possible to transform the market of credit-financial products from market dominated by demand, to market dominated (or at least controlled) by the vendor.

The Banco di Bilbao is present, besides in banking activities, also in other sectors on the basis of these strategical choices:

(a) Minority participation in companies that operate in various fields of finance; in particular participation in insurance companies of general nature.

(b) Total participation in companies operating in life insurance (Eurosicuras). Priority strategic objective: Inter massively in the sector of the insurances, utilizing the banking network to reduce the cost of sale.

They explain: the frontier between bank and insurance is destined to progressively shorten; we need to keep in mind the increasing tendency on the part of the Spanish to obtain life insurance, with assistance characteristics. This is a trend that is, amongst other things, destined to increase, in the sense that the customer is inclined to enlarge his interest to all of the products connected to insurance. Life insurance is an elementary

procedure: that is why we have (distributed) attributed it immediately to the branches. We believe that this insurance is a correct and proper private banking product, like a checking account. The insurance becomes a type of investment fund, guaranteeing to the bank a collection at medium term from customers. There are no problems with the vigilance authorities on this matter because this activity is permitted. The branches receive a prize related to the profits; it is not the single employee who is incentivated by a prize related to the sale of the insurance products.

(c) Activities of Insurance Brokerage: The single situations are being studied, the industrial risks are evaluated and the best solutions are identified. An activity of mediation.

To sell these activities we proceed directly, that is, with "ad hoc" men, with an "expert man in insurances," who operate within the branch. The final objective is to always utilize the banking network to sell all the insurance products, not only the elementary ones (as life insurance).

The insurance companies protest this "aggression" on the part of the banks in their field, but they are protests that remain sterile. They do not have the money to acquire the banks and the subject is valid also for industry. (Opposite situation as can be seen with respect to the Italian one).

Taking into consideration the international perspectives, the progressive carrying out of liberalization in the movement of

capitals, it is possible to forecast that in the year 2000, there will be: global banks, understood as companies that conduct universal banking in all of the world (for example Citibank): not more than twelve;

international banks: approximately 30.

Banco di Bilbao wants to be an international bank within the context of this prospective.

General type topic, to be carried forward in the opportune time, is that of having common legislation at a ECC level for banking activities. This topic becomes urgent, keeping in mind the deadline of 1992.

Also important, within this context is the prospective of exchange of forms of permanent collaboration, between banks operating within the Community, eventually supported by crisscross exchange of shares.

2. The Organizational Philosophy: Beyond the Board, there have also been constituted (it is an autonomous choice of the Banco, not sanctioned by their constitutional document), three permanent commissions, composed of members of the Board and of high managers. There exists also an executive Committee, in which the highest management of the bank participates.

The executive committee has, within its staff, the research department, the planning and development department and a few others.

From the general manager depend directly heads of other operations centers and that is: (1) international activities; (2)

investments; (3) commercial banking activities; and (4) data network and personnel.

The three commissions are: (a) an international one which meets once a month; (b) controlling commission, which meets once a month. It is composed of three advisors (not by the President and by the General Manager) and it evaluates with an external auditing company the correctness of all operations. The Spanish law on companies does not foresee the existence the "Colegio Die Sindaci"; (c) an investment commission that meets two or three times a week.

The Banco di Bilbao has carried out regional articulation: there is a responsible person within every area that decides everything, from the movement of personnel to the single operations. He is, however, also responsible for the results. Every area manager functions with an operative articulation, or freedom, similar to the one existing in the center. The principle of decentralization is carried out with the logic of American industrial companies.

What directly depends from central headquarters - with its own representatives in nine branches, that answer directly to the responsible manager in central headquarters - is the relationship with 1,500 "big customers." The list of these 1,500 is agreed on and known. It has been generated in order to avoid that the area managers should aim on big companies to conduct business, therefore ignoring new and potential customers. In practice, the Banco tends to have a manager which follows constantly one or a small number of

WILMER, CUTLER & PICKERING

2445 M STREET, N.W.
WASHINGTON, D.C. 20037-1420

LLOYD M. CUTLER
DIRECT LINE (202) 663-8400
FACSIMILE (202) 663-8400
INTERNET LCUTLER@WILMER.COM

TELEPHONE (202) 663-9000
FACSIMILE (202) 663-8454
INTERNET LAW@WILMER.COM

4 CARLTON GARDENS
LONDON SW1Y 5AA
TELEPHONE ON (4471) 839-4488
FACSIMILE ON (4471) 839-3537

RUE DE LA LOI 15 WETSTRAAT
B-1040 BRUSSELS
TELEPHONE ON (322) 231-0803
FACSIMILE ON (322) 230-4322

FRIEDRICHSTRASSE 95
D-10117 BERLIN
TELEPHONE ON (4930) 2643 3801
FACSIMILE ON (4930) 2643 3630

November 12, 1993

BY HAND

The Honorable Henry B. Gonzalez
Chairman
Committee on Banking, Finance
and Urban Affairs
2129 Rayburn House Office Building
Washington, D.C. 20515-6050

RECEIVED

NOV 12 1993

Banking, Finance & Urban Affairs Committee

Dear Chairman Gonzalez:

On behalf of Dr. Henry Kissinger, I am writing to ask that you correct the record with respect to statements made during the House Banking Committee's November 9 hearing on the BNL-Atlanta loans to Iraq.

1. Mr. Drogoul made a number of statements in response to Committee questions about his "knowledge of BNL's relationship with Kissinger Associates." The limited relationships of Dr. Kissinger and Kissinger Associates with BNL are fully described in my letter of May 12, 1992, and Dr. Kissinger's earlier letter to the Committee dated August 30, 1991, printed at page H2700 of the Congressional Record for April 28, 1992. As set forth in

The Honorable Henry B. Gonzalez
November 12, 1993
Page 2

these letters, BNL was a consulting client of Kissinger Associates from 1986 to 1988, and Dr. Kissinger served as a member of BNL's International Advisory Board from 1985 to 1991, together with other well-known international leaders such as Pierre Trudeau, Raymond Barre, and David Rockefeller. However, neither Dr. Kissinger nor Kissinger Associates ever advised or assisted BNL in connection with any loan or other business relating to Iraq.

Contrary to Mr. Drogoul's testimony, Dr. Kissinger was not "the architect of United States foreign policy toward Iraq" at any time after he left public office in 1977, a decade before the period covered by Mr. Drogoul's testimony. Nor was he the "architect of these loans as they related to U.S. foreign policy." Dr. Kissinger played no part in the formulation of U.S. foreign policy toward Iraq during the period of the BNL loans. Neither Dr. Kissinger nor Kissinger Associates had knowledge of or involvement in any BNL loan relating to Iraq.

Mr. Drogoul also stated that "the people at Kissinger Associates were somehow assisting clients of Iraq in furthering and developing business." The reference to "clients of Iraq" is obscure, but even if it refers to clients of Kissinger Associates, the statement is untrue. KAI is a geopolitical

The Honorable Henry B. Gonzalez
November 12, 1993
Page 3

consulting firm. It advises corporate clients regarding economic and geopolitical trends around the world. Although KAI has occasionally provided general advice to its clients about Iraq's comparative political stability and its role in the region, KAI has never advised or assisted any client in developing business in Iraq or obtaining loans for that purpose.

2. You referred to a letter I had written to the Committee as Dr. Kissinger's counsel relating to documents published by the Committee concerning Dr. Kissinger's past membership on the International Advisory Board of BNL. You described my letter as "protesting and stating that he [Dr. Kissinger] at no time as a member ever discussed Iraq". You then referred to minutes of an International Advisory Board meeting in Madrid on May 4-5, 1987, showing that Dr. Kissinger had discussed the Iran-Iraq War and its strategic and political implications.

My letter to you dated May 12, 1992 contains no statement remotely resembling your characterization of it. It contains no statement whatsoever about the substance of any discussions at the International Advisory Board. While it is true that Dr. Kissinger did engage in discussions of the international political and strategic situation at Advisory Board meetings, including the discussion of the Iran-Iraq War you referred to,

The Honorable Henry B. Gonzalez
November 12, 1993
Page 4

nothing in my letter can be read as suggesting the contrary.

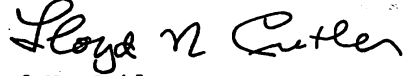
As Dr. Kissinger has previously told the Committee, the purpose of BNL's Advisory Board -- like similar advisory boards for other multinational companies -- was to present the views of experienced world leaders on political and economic developments around the world. Dr. Kissinger's general comments regarding the Iran-Iraq War were no different from remarks he made in other fora. The Advisory Board was not informed about and did not provide advice regarding BNL's banking activities in particular countries. The Advisory Board minutes show no discussion of BNL loans relating to Iraq or any other country, and there were no such discussions.

The activities of BNL-Atlanta and their relationship if any to U.S. foreign policy vis-a-vis Iraq in the 1980's and 1990's may be worthy subjects of inquiry by your Committee, but as the record before the Committee plainly shows, Dr. Kissinger had no involvement whatsoever in either of these subjects. Throughout this period, and well before Iraq's invasion of Kuwait, he was a consistent public critic of Saddam Hussein, and did nothing to assist him. The allegations made in the Committee's November 9 hearing concerning Dr. Kissinger and Kissinger Associates are totally untrue.

The Honorable Henry B. Gonzalez
November 12, 1993
Page 5

I respectfully request that this letter be made a part of
the hearing record.

Sincerely yours,

A handwritten signature in cursive script that reads "Lloyd N. Cutler". The signature is written in dark ink and is positioned above the printed name.

Lloyd N. Cutler

cc: The Honorable James A. Leach
Ranking Minority Member

ONE HUNDRED THIRD CONGRESS
2129 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-8050

JAMES A. LEACH, IOWA
 DEL MCCULLUM, FLORIDA
 MARIE RIZQUEMA, NEW JERSEY
 WOOD GOSSETT, MISSISSAUGA
 JAMES J. GIBSON, PENNSYLVANIA
 TONY NORTON, WISCONSINI
 ALFRED A. McCARBLES, CALIFORNIA
 EDWARD H. BAKER, LOUISIANA
 JIM RUSSELL, IOWA
 CHARLES THOMAS, WYOMING
 SAM JOHNSON, TEXAS
 DEBORAH PRICE, OHIO
 JOHN LEBER, GEORGIA
 JOE ENGLEBERGER, MICHIGAN
 LEE LARA, NEW YORK
 NED GORDY, MISSOURI
 SPENCER BACHUS JR, ALABAMA
 MARY HUFFSTON, CALIFORNIA
 MICHAEL CASTLE, DELAWARE
 PETER ERNE, NEW YORK
 NORMAN SANDERS, VERMONT

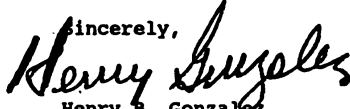
(800) 228-4947

BNL established the International Advisory Board to help its business. Mr. Kissinger was hired to serve on the Board to help BNL's business. There can be no doubt that BNL used Mr. Kissinger's views to help formulate its lending policy toward current and prospective customers that had interests in or were located in the Middle East and Iraq. If the expression of Mr. Kissinger's views were no different from remarks in other fora, why would BNL pay handsomely for his views?

Third, I find it hard to accept your statement that Mr. Kissinger "... played no part in the formulation of U.S. foreign policy toward Iraq during the period in question." Mr. Kissinger was the former superior and close friend of former Secretary of State Lawrence Eagleburger and former National Security Advisor Brent Scowcroft. These men played a pivotal role in setting U.S. policy toward the Middle East and Iraq, and I find it hard to believe that they were not influenced to some degree by Mr. Kissinger's thoughts on the topic.

Per your request, I will include your letter of November 12, 1993 and my response in the printed record of the hearing.

Sincerely,

A handwritten signature in dark ink, appearing to read "Henry Gonzalez", written in a cursive style.

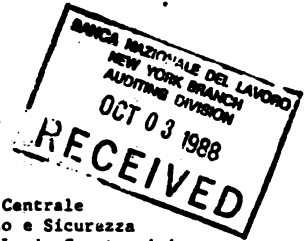
Henry B. Gonzalez
Chairman

HBG:dk

BANCA NAZIONALE DEL LAVORO **BNL** BANCA NAZIONALE DEL LAVORO

LUIGI SARDELLI
Executive Vice President
& Regional Manager

October 3, 1988



Mr. Chris Drogoul
Banca Nazionale del Lavoro
Atlanta Branch
Gas Light Tower
235 Peachtree St., N.E.
Suite 2000
Atlanta GA 30303

cc: Direzione Centrale
Ispettorato e Sicurezza
c/o Dott. Lucio Constantini
NY (by hand)

Regional Auditor,
New York

Dear Mr. Drogoul:

I enclose herewith a copy of two memoranda which because of the magnitude of the amounts involved and the seriousness of the findings have been sent to me by our Regional Auditor on a interim basis.

On a personal level I must say that I was shocked and dismayed. Given the extreme accessibility with which I make myself available anytime of the day (and the night) to whomever officer of this Area asks for guidance, I would have never expected that such a situation exist in the Atlanta Agency.

But then the question comes: how can anyone lend guidance to people who evidently do not want to be guided?

Riverting to officialdom I believe that your explanations of the circumstances which prompted the existence of so many unacceptable exceptions are needed with the outmost urgency. You undoubtedly realise that in certain cases Executive Committee Resolutions have been defied (the Head Office letters dated Feb. 18 and May 30, 1988 on Cargill have not even been answered) whereas "country risk exposures", the domain of our Board of Directors, seems to have been exceeded out of any proportion with the amounts authorized. I suggest that you prepare a memorandum of explanation touching upon all the topics contained in the Regional Auditor's memoranda, so that it can be discussed at a meeting with me to be held on Friday, October 7, 1988, in New York, Bank premises 7th Floor.

Sincerely,

BANCA NAZIONALE DEL LAVORO
ATLANTA AGENCYRAPICOM COVER LETTER

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

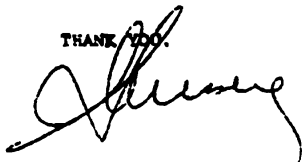
NAME: MR. LUIGI SARDELLI, EVP-REG. MANAGER
BRANCH: REGIONAL MANAGEMENT, NEW YORK

FROM:

NAME: L. MESSERE
DEPARTMENT: ATLANTA AGENCY
TELEPHONE #: _____TOTAL NUMBER OF PAGES 4 INCLUDING COVER LETTER.NOTE: _____

_____IF YOU NEED A RESEND OF ANY PAGE, PLEASE CALL THE NUMBER ABOVE. IF YOU
DO NOT CALL, WE WILL ASSUME THAT YOU HAVE RECEIVED THE DESIGNATED NUMBER
OF PAGES SATISFACTORILY.

THANK YOU.



9/27/1988

MEMORANDUM

TO: Mr. L. SARDELLI, EXECUTIVE VICE PRESIDENT - REGIONAL MGMT.

FROM: L. MEISSERE, V.P. - REGIONAL AUDITOR

SUBJECT: BRIEF SUMMARY OF ATLANTA AGENCY AUDIT AS OF 9/2/88

SUBSEQUENT TO OUR MEMORANDUM OF 9/23/1988, THE FOLLOWING IS AN UPDATE OF OUR AUDIT FINDINGS:

A. CREDIT LINE EXCESSES OR LINE USAGE IN QUESTION

<u>CUSTOMER</u>	<u>OUTSTANDINGS</u>	<u>APPROVED LINE</u>	<u>EXCESS AND REMARKS</u>
CARGILL AS OF 9/27	\$ 127,000,000	\$ 75,000,000	\$ 52,000,000
BANK OF CHINA AS OF 9/27	\$ 33,000,000	\$ 40,000,000	LINE INTENDED FOR INTERBANK ACTIVITY AS PER INTERBANK LINE REPORT AS OF 8/21/88
X BANQUE PARISIENNE AS OF 9/27	\$ 9,000,000	\$ 2,000,000	\$ 7,000,000
X UNION BANK OF FINLAND, LTD. AS OF 9/27	\$ 7,643,000	- 0 -	\$ 7,643,000
X CREDIT LYONNAIS AS OF 9/27	\$ 3,570,000	- 0 -	\$ 3,570,000
1) [BANQUE DE L'AGRICULTURE ET DU COMMERCE AS OF 9/27	234,894,000	\$ 171,200,000	\$ 63,694,000

THE ABOVE EXCEPTIONS, ALONG WITH OTHER TYPES OF EXCEPTIONS HAVE BEEN REFERRED TO THE AGENCY MANAGER FOR RESOLUTION.

B. ALTHOUGH VERY FEW, CONTROLS FOR INTERBANK LINES ARE NOT IN PLACE AND A PROCEDURE TO DO SO IMMEDIATELY HAS BEEN RECOMMENDED.

C. SEVERAL DISCREPANCIES HAVE BEEN NOTED BETWEEN APPROVED LINES AND THE "2650".

D. CREDIT PROPOSALS NOT MODIFIED, SUBSEQUENT TO HEAD OFFICE APPROVAL BASED ON MODIFIED TERMS AND CONDITIONS, IF ANY.

E. FOR LINES EXTENDED UNDER AGENCY JURISDICTION THERE ARE NO CREDIT PROPOSALS PREPARED. AGENCY CREDIT COMMITTEE APPROVAL WAS ON FILE.

F. AGENCY IS IN NEED OF CREDIT MANAGER TO TAKE CARE OF THE MANY ADMINISTRATIVE FUNCTION ASSOCIATED WITH THE CREDIT DEPARTMENT.

G. THE AGENCY OPERATIONS AREA NEEDS MAJOR RESTRUCTURE IN THE FORM OF WORKFLOW

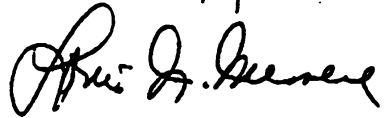
AND PHYSICAL STRUCTURE.

H. ACCOUNTING FUNCTIONS NEED TO BE
CENTRALIZED.

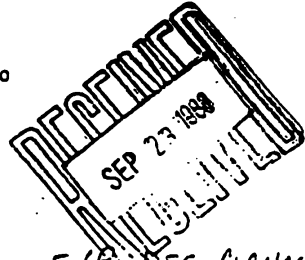
I. COLLATERAL FROM ENTRADE NOT YET RECEIVED.

SHOULD YOU HAVE ANY QUESTIONS ON THE
ABOVE, WE WILL BE HAPPY TO SUPPLY FURTHER
DETAILS:

SINCERELY,

A handwritten signature in cursive script, appearing to read "R. J. Givens".

(2)

BANCA NAZIONALE DEL LAVORO
ATLANTA AGENCYRAPICOM COVER LETTER

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME: MR. LUIGI SARDELLI, EVP, REG. MANAGER
BRANCH: REGIONAL MANAGEMENT, NEW YORK

FROM:

NAME: L. MESSERE
DEPARTMENT: ATLANTA AGENCY
TELEPHONE #: _____TOTAL NUMBER OF PAGES 3 INCLUDING COVER LETTER.NOTE: _____

_____IF YOU NEED A RESEND OF ANY PAGE, PLEASE CALL THE NUMBER ABOVE. IF YOU
DO NOT CALL, WE WILL ASSUME THAT YOU HAVE RECEIVED THE DESIGNATED NUMBER
OF PAGES SATISFACTORILY.

THANK YOU.

SEP 23 '88 09:59 BIL ATLANTA

P.22

9/23/1988

MEMORANDUM

TO: Mr. L. SANDELL, EXECUTIVE VICE PRESIDENT - REGIONAL
MANAGER

FROM: L. MESSERE, V.P. - REGIONAL AUDITOR

SUBJECT: BRIEF SUMMARY OF ATLANTA AGENCY AUDIT AS
OF 9/2/88.

THIS IS TO CONFIRM OUR DISCUSSION OF 9/19/88
WHEREBY I BRIEFED YOU ON CERTAIN FINDINGS
NOTED DURING THE COURSE OF THE AUDIT, CURRENT
IN PROGRESS.

BELOW PLEASE FIND A LIST OF ISSUES NOTED SO F

- A. CONTINGENT ACCOUNTING ENTRIES FOR ISSUED COMPANY
LETTERS OF CREDIT ARE NOT BEING POSTED ON A TIME
BASIS. ALSO, NO ENTRIES ARE BEING PROCESSED FOR
UNCONFIRMED L/C'S AND COLLECTIONS.
THE L/C AREA NEEDS TO BE BETTER ORGANIZED.
- B. THE AGENCY HAS LEASED (4) FOUR CARS AND NO
EVIDENCE OF REGIONAL MANAGEMENT APPROVAL WOULD BE
FOUND.
- C. SEVERAL CASH ADVANCES (TOTALING \$12,450) GIVEN -
THE AGENCY MANAGER FOR TRAVEL REMAIN TO BE
CLEARED, ALTHOUGH RELATED EXPENSE REPORTS HAVE
BEEN FILED WITHOUT TAKING THEM INTO
CONSIDERATION.

(CONTINUED)

APPROVAL COULD BE FOUND FOR LATER
(TOTALING \$61,000) CONNECTED WITH THE RECENT
EXPANSION OF OFFICE SPACE.

E. NO REGIONAL MANAGEMENT APPROVAL COULD BE
FOUND FOR GIFTS TO CUSTOMERS IN EARLY 1981
(APPROX. \$2000)

F. AS REQUESTED THE POSITION FOR ENTRANCE INT'L
NEW YORK AS OF 9/21/88 WAS:

LOANS OUTSTANDING (3 LOANS)	\$ 2,737,800-
CASH COLLATERAL	\$ 1,108,950.50

AS PER MR. DROUGGAL, CUSTOMER TO FORWARD
\$6,000,000 AS CASH COLLATERAL BY 9/26/88,
IN ORDER FOR THE AGENCY TO BE IN
COMPLIANCE WITH THE TERMS AND CONDITION
OF THE CREDIT LINE EXTENDED TO CUSTOMER.

~~THE~~ SHOULD YOU HAVE ANY QUESTIONS
ON THE ABOVE, WE WILL BE HAPPY TO
SUPPLY FURTHER DETAILS.

Sincerely,
Philip D. Drougall

WILLIAM C. HARRIS
Commissioner

JOHN E. TRESTON
First Deputy Commissioner

WILLIAM J. BOYS
Deputy Commissioner



State of Illinois

COMMISSIONER OF BANKS AND TRUST COMPANIES

August 20, 1985

Suite 2130
310 South Michigan Avenue
Chicago, Illinois 60604
312/793-2043

Mr. Renato Guadagnini
Executive Vice President
Banca Nazionale del Lavoro
Regional Manager North and Central America
25 West 51st Street
New York, New York 10019

Dear Mr. Guadagnini:

Enclosed please find a copy of the Report of Examination of the Chicago Branch as of the close of business June 7, 1985.

It is apparent that Mr. Vincenzino has accomplished the banks initial objectives set out by Regional management to bring the branch under an expense control program along with a gradual sound commercial loan growth. Problems discussed in the previous examinations have been corrected and a favorable trend noted.

After the Report has been reviewed, please execute the attached official acknowledgement and return same to this office.

Sincerely,

Arthur J. Appl, Jr.
Supervising Examiner
Foreign Banking

AJA:am
Enclosure

cc: Mr. Giuseppe Vincenzino, Manager
Banca Nazionale del Lavoro

WILLIAM C. HARRIS
Commissioner

JOHN E. TRESTON
First Deputy Commissioner

WILLIAM J. BOYS
Deputy Commissioner



State of Illinois

COMMISSIONER OF BANKS AND TRUST COMPANIES

Suite 2130
310 South Michigan Avenue
Chicago, Illinois 60604
312/783-2043

August 20, 1985

Mr. Giuseppe Vincenzino, Manager
Banca Nazionale del Lavoro
55 West Monroe Street
Suite 600
Chicago, Illinois 60603

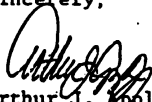
Dear Mr. Vincenzino:

Enclosed please find a copy of the Report of Examination of the Chicago Branch as of the close of business June 7, 1985.

It has been noted that Regional Management's objectives as set out approximately a year ago of controlling expenses along with a gradual sound commercial loan growth has been accomplished. This office acknowledges that and the favorable trend noted during this examination.

After the report has been reviewed, please execute the attached official acknowledgment and return same to this office.

Sincerely,


Arthur J. Appl, Jr.
Supervising Examiner
Foreign Banking

AJA:am
Enclosure

RCA GA
843610116+

YR ID PLS?LAVOROBANK CGO

MAR 01 0919 637019
610116 BNLROM I
LAVOROBANK CGO

MESS. 7234 MARZO 1, 1985

DIRBANCOPER

C.SE ATT.NE SIGNOR DIRETTORE GENERALE, PROF.FRANCESCO BIGNARDI

CC: VICE DIRETTORE GENERALE, DR. FABIO LARATTA

SAI, MR. ANGELO FLORIO

SIAMO LIETI DI INFORMARLA CHE BNL CHICAGO HABET CHIUSO MESE
FEBBRAIO 1985 IN ATTIVO PER DOLLARI 4,208.74.

CONFIDIAMO DI POTERE MANTENERE RISULTATI POSITIVI PER CORRENTE
ESERCIZIO ET RINGRAZIAMO LEI ET DIREZIONE GENERALE TUTTA PER
FIDUCIA ACCORDATACI ET PER CONTINUA ASSISTENZA.

OSSEQUI.

VINCENZINO-GUADAGNINI
LAVOROBANK CHICAGO
E

610116 BNLROM I
LAVOROBANK CGO

.....
0003.4|

Telegram from BNL Chicago to BNL Rome, March 1, 1985

TO: Prof. Francesco Bignardi
Director General

CC: Dr. Fabio Laratta, Deputy Director General,
Mr. Angelo Florio, International Affairs Division


We are pleased to inform you that BNL Chicago closed the month of February, 1985 with a profit of \$4,208.74.

We trust we will continue to show profits in the current reporting year, and we thank you and all the senior managers for the confidence placed in us and for your continued assistance.

Respectfully,

Vincenzino-Guadagni
Lavorobank Chicago

Codice Mittente: 281.3.03



Consolato Generale d'Italia
Chicago

BANCA NAZ. DEL LAVORO
SEDE CENTRALE 02003 29 marzo 1985
(numero di protocollo e data)
20585

APERTURA CORRISPONDENTE

Oggetto: Filiale B.N.L. di Chicago.

Riferimenti:

TELESPRESSO indirizzato a:

**AMBASCIATA D'ITALIA
WASHINGTON**

e, p.c.:

**BANCA NAZIONALE DEL LAVORO
Direzione Generale
Via Vittorio Veneto, 116
ROMA**

Ho il piacere di portare a conoscenza di codesta Ambasciata che questa filiale della B.N.L. che, fin dai primi mesi della sua apertura in questa città avvenuta nel 1982, aveva sollevato serie perplessità in questi circoli bancari, ha fatto verificare, nei primi mesi del corrente esercizio 1985 e per la prima volta, un saldo attivo.

Indubbiamente, il verificarsi di situazioni favorevoli ma soprattutto l'azione precisa, cauta e lungimirante dell'attuale direzione, sono stati tutti elementi che hanno concorso a ristabilire in questa città ed in questi circoli, il rispetto e la fiducia nella nostra Banca.

Alleg.

N.

Lucy

Telegram of March 29, 1985 [Stamp: BNL Main Office Mail Room]

TO: Italian Embassy in Washington, March 29, 1985
FROM: Italian Consulate General in Chicago
CC: BNL Main Office, via Vittorio Veneto 116, ROME

Subject: BNL branch in Chicago

I take pleasure in informing the Embassy that the BNL branch here, which had given rise to serious concern in Chicago banking circles since its opening in 1982, has shown its first profitable balance in the first months of 1985.

Favorable circumstances have contributed to this situation, but the result is ascribable more to the present manager's meticulous, prudent and forward-looking actions, which have helped to reestablish respect for and confidence in our bank in this city and its banking circles.

ENL CHICAGO: RISULTATI (\$ MILIARDI)													(\$ UNITA')					
Thousands																		
	GEN.	FEB.	MAR.	APR.	MAG.	GIU.	LUG.	AGO.	SETT.	OTT.	NOV.	DIC.	TOTALE ANNO	RETIFICHE Changes	PERDITA EFFETTIVA Effective Losses	PERDITA CUMULATIVA Cumulative Losses		
<u>1981</u>																		
PERDITA CONTABILE (DATI RICOSTRUITI) Book Losses (Reconstructed Data)																		
<u>1982</u>																		
Ordinary Expenditure (Jan.-June: Cumulative data.)																		
SPESA ORD. (GENNAIO-GIUGNO DATI CUMULATIVI)	512	168	120	115	130	101	233									1,379,000		
PERDITA CONTABILE (GENNAIO-GIUGNO DATI CUMUL.)	443	350	210	310	+196	1,177	368									2,662,000	+68,000 (a)	2,739,000
<u>1983</u>																		
SPESA ORD.	132	144	164	173	236	193	117	189	149	171	184	167	2,019,000					
PERDITA CONTABILE	100	77	164	113	290	78	511	325	252	180	263	164	2,517,000	-322,000 (b)	2,839,000	5,578,000		
<u>1984</u>																		
SPESA ORD.	140	175	195	230	95	119	115	130	83	81	95	130	1,588,000					
SPESA STRAORD. (Extraordinary Expenditure)	=	=	=	210	130	=	154	+1	+1	35	=	10	537,000					
PERDITA CONTABILE	169	140	233	236	339	345	197	358	65	50	82	88	2,302,000	+340,000 (c)	1,962,000	7,540,000		
<u>1985</u>																		
SPESA ORD.	65	62	81	74	74	70	94	74					Totale 8 mesi					
PERDITA/PROFITTO	18	+4	37	+89	+33	+74	+22	+33					594,633					
a) +68,000 utili 1982 contabilizzati nel 1983 b) +18,000 utili 1983 contab. nel 1984 c) +340,000 perdite 1983 contab. nel 1984																		
d) -340,000 perdite 1983 contab. nel 1984																		
SALANCE SITUAZIONE AL 31 DICEMBRE 1984:																		
- Perdite accumulate Cash Endowment Fund																		
- Fondo di dotazione \$5,000,000																		
- Capital Deficit																		
- Deficit patrimoniale \$2,540,000 (da finanziare giornalmente su mercato a tasso medio 9%: costo fisco mensile \$19,050, annuo \$228,600)																		
1983 Losses Ent. on '84 books																		
1983 Losses Ent. on '84 books																		
Fixed Monthly Cost: Fixed Annual Cost:																		

* Apr 1984: arrived in F.R.G. = April 1984: I came to the bank
Feb 1985: The bank's first profit.

THE **B**ANCA
NAZIONALE
del
LAVORO
INVESTIGATION

REPORT OF **THE**
INDEPENDENT
COUNSEL

FREDERICK B. LACEY
ON THE
PRELIMINARY INVESTIGATION

PART I

DECEMBER 8, 1992

PART I
TABLE OF CONTENTS

	<u>Page</u>
INTRODUCTION	1
ORGANIZATION AND STAFFING	3
THE SCOPE OF MY INVESTIGATION	5
Documents	5
Interviews and Sworn Testimony	8
THE REMAINDER OF THE REPORT: PART I	12
I. THE BEGINNING OF THE BNL MATTER	13
II. A BROAD REVIEW OF THE BNL MATTER	16
III. THE INDICTMENT	18
A. Officers And Employees Of BNL In Atlanta	18
B. Other Defendants	20
C. Cooperating Individuals	23
D. The Counts	24
E. A General Overview Of The Scheme	25
IV. MORE DETAILS ABOUT THE BNL-ATLANTA WRONGDOING	28
V. THE GOVERNMENT'S INVESTIGATION AND PROSECUTION OF THE MATTER	36
A. Overview	36
B. The Initial Stage: Autumn 1989	38
C. Interaction Between USAO And DOJ: Winter 1989 - 1990	44
D. The Reaction In Italy	51
E. The Prosecution Memorandum: Spring 1990	53
F. The Investigation: Spring And Summer 1990	57

G.	The Continuing Debate: Autumn 1990	58
H.	The Final Stage: January And February 1991	64
I.	The Final Indictment	68
J.	Omissions From The Indictment	71
K.	Analysis Of The Indictment	74
L.	Should BNL Have Been Indicted?	75
M.	Conclusion	90
VI.	THE FOREIGN POLICY OF THE UNITED STATES - DID IT AFFECT THE GOVERNMENT'S INVESTIGATION AND PROSECUTION OF THE BNL MATTER?	91
A.	The United States' Foreign Policy Toward Iraq	92
B.	Was Improper Influence Attempted Or Exerted Upon DOJ Or The Atlanta USAO In The BNL Investigation And Prosecution?	95
C.	Did The Foreign Policy Of The United States Toward Iraq, As Defined Above, Impact Upon The Government's Investigation And Prosecution?	106
VII.	ISSUES RAISED BY JUDGE MARVIN H. SHOOB	107
A.	The Terms And Development Of The Plea Agreement	108
B.	Concern About The "Eleventh Hour" Plea Agreement	113
C.	The Sentencing Hearing And October 5 Order	115
D.	Judge Shoob's Specific Charges	118
VIII.	ALLEGATIONS MADE BY CONGRESS AND THE PRESS	144
A.	Allegations Of Improprieties Inside The Justice Department	144
B.	Allegations Of Improprieties Outside The Justice Department	163
C.	Miscellaneous Allegations	171
IX.	THE UNCLASSIFIED CABLE STORY	173
A.	DOJ Requests For Intelligence Information	173
B.	Dissemination Of The Intelligence Information By The DOJ And The FBI -- 1989 Through 1991	175

C.	Events In September 1992	176
X.	LEGAL ANALYSIS AND CONCLUSIONS	180
A.	18 U.S.C. 1503	181
B.	18 U.S.C. 1505	183
C.	18 U.S.C. 1001	186

Index to Appendices

Part I

Volume 1

- Exhibit 1** **Letter of Appointment;**
- Exhibit 2** **Frederick B. Lacey's Curriculum Vitae;**
- Exhibit 3** **Letter of October 26, 1992, from Frederick B. Lacey to William P. Barr;**
- Exhibit 4** **Letter of October 27, 1992, from William P. Barr to Frederick B. Lacey;**
- Exhibit 5** **Letter of November 12, 1992, from Frederick B. Lacey to William P. Barr;**
- Exhibit 6** **Letter of November 16, 1992, from William P. Barr to House Judiciary Committee;**
- Exhibit 7** **Letter of November 16, 1992, from William P. Barr to Senate Judiciary Committee;**
- Exhibit 8** **List of individuals contributing to the project;**
- Exhibit 9** **Letter of November 2, 1992, from Frederick B. Lacey to William P. Barr;**
- Exhibit 10** **Curriculum Vitae of Department of Justice and United States Attorney's Office attorneys;**
- Exhibit 11** **List of individuals interviewed by the Federal Bureau of Investigation;**
- Exhibit 12** **Search Warrant Application;**
- Exhibit 13** **Overview of Arthur J. Wade; and**
- Exhibit 14** **United States Attorney's Office Analysis;**

Volume 2

- Exhibit 15** **Indictment;**
- Exhibit 16** **Christopher Drogoul's 1989 Statement;**

- Exhibit 17 Telex of February 13, 1987, from
Christopher Drogoul to Boldrini; and
- Exhibit 18 Sentencing Memorandum.

Volume 3

- Exhibit 19 Christopher Drogoul's Debriefing Memoranda; and
- Exhibit 20 Final Report to the Italian Parliamentary
Committee on Inquiry.

Volume 4

- Exhibit 21 Transcript from Hearing, dated June 2, 1992,
before the Honorable Marvin H. Shoob;
- Exhibit 22 Chart 27;
- Exhibit 23 Transcript of Hearing, dated March 7, 1991,
before the Honorable Marvin H. Shoob;
- Exhibit 24 NSD-26 (redacted version);
- Exhibit 25 Order, dated October 5, 1992, by
the Honorable Marvin H. Shoob;
- Exhibit 26 Response of USAO-Atlanta to the allegations
raised by the Honorable Marvin H. Shoob; and
- Exhibit 27 Transcript of Hearing, dated June 16, 1992,
before the Honorable Marvin H. Shoob.

PART IINTRODUCTION

This portion of my Report, Part I, references no classified information and thus its distribution is unrestricted. Part II, however, is a classified document and its distribution is restricted.¹

On October 16, 1992, United States Attorney General William P. Barr appointed me as Independent Counsel pursuant to 28 C.F.R. Part 600, to investigate various issues related to the prosecution of Christopher Drogoul and others in what is referred to as the Banca Nazionale del Lavoro ("BNL") matter.² (Letter of Appointment, Ex. 1.)³

On October 26, acting under the Letter of Appointment, I recommended to the Attorney General that, pursuant to the Independent Counsel statute, 28 U.S.C. §§ 591, et seq., he commence a "preliminary investigation" into the matter. (Letter of Judge

¹ Given time constraints, Part II has been classified "Top Secret Codeword" to correspond with the highest classification of some of the restricted material contained in Part II. In my transmittal letter to the Attorney General, I have indicated that review of Part II by trained personnel should continue in order to determine if any portion thereof can be accorded a lesser classification or, perhaps, even be declassified for public distribution.

² Use of the description "BNL-Atlanta" is intended to distinguish that branch from the bank's headquarters, which hereinafter will be referred to as "BNL-Rome" or "BNL."

³ The Attorney General requested that I provide him with my curriculum vitae. A copy is included in this Report. Ex. 2. All exhibits to Part I are designated "Ex." with the appropriate exhibit number to follow. All exhibits to Part II are designated "OIC Ex." with a reference to the appropriate exhibit number. These exhibits are included in the appendices to Reports I and II.

Frederick B. Lacey ("Lacey") to William P. Barr ("Mr. Barr"), dated October 26, 1992, Ex. 3.)

On October 27, the Attorney General, accepting my recommendation, authorized me to commence the "preliminary investigation," and asked that I report to him thereon by December 8, 1992. (Letter of Mr. Barr to Lacey, dated October 27, 1992, Ex. 4.)

On November 12, I recommended to the Attorney General that he respond to the request of the Committee on the Judiciary of the United States House of Representatives that he seek appointment of a statutory Independent Counsel by stating that he had begun a preliminary investigation under the Independent Counsel statute (Letter from Lacey to Mr. Barr, dated November 12, 1992, Ex. 5). On November 16, the Attorney General made such a response to the Committee on the Judiciary of both the United States House of Representatives (Letter from Mr. Barr to House Judiciary Committee dated November 16, 1992, Ex. 6) and the Senate. (Letter of Mr. Barr to Senate Judiciary Committee, dated November 16, 1992, Ex. 7.)

My appointment as Independent Counsel followed receipt by the Attorney General of letters from Senator Boren and the Senate and House of Representative Judiciary Committees. These letters addressed the conduct by the Department of Justice in the investigation and prosecution of the BNL matter.

In accordance with the terms of the Letter of Appointment, it was to that subject that I have devoted my

attention during this investigation. To the extent matters may have arisen in my investigation related to the conduct of persons outside the Department of Justice, where I had the time to address them, I have considered them in this Report.

ORGANISATION AND STAFFING

Honored though I was by the Attorney General's request that I accept the Independent Counsel appointment, I agreed to do so only after receiving his commitment that I would be given access to every document and every person within the Department of Justice. He has fulfilled that commitment.⁴ I also withheld my acceptance of the appointment until I had received directly from Judge William S. Sessions, Director of the Federal Bureau of Investigation ("FBI"), his personal assurance that he would assign as many FBI agents as I required in my investigation. This assurance was given and has been met, and the men and women Judge Sessions assigned have worked diligently to complete this assignment. I particularly wish to thank Inspector Deputy Assistant Director Frederick B. Verinder, whom Judge Sessions assigned to coordinate my requirements with the FBI investigative assistance provided.

I also express my appreciation to Director Robert M. Gates of the Central Intelligence Agency ("CIA") and to Inspector General Frederick P. Hits of that Agency, for their cooperation with me.

⁴ As discussed at 10, *infra*, and in Part II of this Report, one member of the Department of Justice refused to testify under oath or even give stenographically recorded testimony.

I also wish to thank United States Senator David L. Boren and Messrs Britt Snyder and George Tenet of the staff of the United States Senate's Select Committee on Intelligence for having given their time to enable me to grasp quickly certain of the key intelligence issues involved in this matter.

Steven Ross, Esq., Counsel to the Clerk of the United States House of Representatives, was also helpful in bringing to my attention certain materials developed by the House Committee on Banking, Finance and Urban Affairs, chaired by Congressman Henry B. Gonzalez.

I had to assemble a staff. To do so quickly, but without sacrificing excellence and dedication, I turned to my law firm, LeBoeuf, Lamb, Leiby & MacRae, drawing from it attorney, paralegal, secretarial and clerical assistance. At various times I have had as many as 25 persons from LeBoeuf working on this matter. Donald J. Greene, LeBoeuf's Chairman, in urging me to undertake this assignment, promised me that the firm would make available to me all the assistance I required. That promise has been kept.

My partners, Charles C. Platt and Molly S. Boast, joined me in this endeavor and, with their professionalism and experience, have played key roles in this investigation. Stuart Alderoty, another LeBoeuf colleague, also played a major role in our work, aided by many others from the LeBoeuf firm.

I also want to acknowledge the dedication and professionalism of Marc W. Farley, an Assistant United States Attorney, who was, at my request, detached from his regular duties

and assigned to work with me on this project. Mr. Farley also had a central part in this project.⁵

THE SCOPE OF MY INVESTIGATION

Documents

My staff and I have received and reviewed thousands of documents from a variety of sources as part of my investigation. The following describes categories of documents I received and the process of gathering and reviewing those documents.

(a) Public Documents -- At the outset, I received and reviewed many public documents to acquire quickly a broad background of the matter. These documents included: the Report to the Committee on the Judiciary of the House of Representatives by the Attorney General dated August 10, 1992; the Final Italian Parliamentary Committee Report on ENL, dated April 22, 1992 (Ex. 20); the transcript of various proceedings before United States District Judge Marvin H. Shoob involving Christopher Drogoul and others in the ENL matter, including those relating to the entry of Paul Robert Von Wedel's and Christopher Drogoul's guilty pleas and his sentencing hearing; and the media reports regarding the ENL matter.

(b) Documents from the Department of Justice -- I took several steps to obtain all relevant documents from the Justice Department in Washington ("DOJ") and from the U.S. Attorney's

⁵ For a listing of those contributing to the completion of this project, see Ex. 8.

Office in the Northern District of Georgia ("USAO").⁶

1. I called for and received the files of numerous individuals from the DOJ, USAO and the BNL Task Force at the USAO containing intelligence community information in the BNL matter. These documents have been reviewed for their content, utilized for interviews and the taking of sworn testimony of witnesses, and many are referenced to and included in Part II of this Report, given their classified nature.

2. I met with certain attorneys at the DOJ and the USAO to describe additional documents that I required for my inquiry, and to ensure their full cooperation in providing information. As a result of those meetings, and at my suggestion, Deputy Attorney General George Terwilliger ("Terwilliger") sent a memorandum dated November 3, 1992, to all DOJ employees directing a full and complete search of their files for BNL materials and the production of those materials to FBI agents assigned to this matter and to my staff and me. Terwilliger's memorandum followed and complemented my November 2, 1992, letter to the Attorney General in which I requested 44 separate categories of defined documents and background information on the BNL prosecution from those DOJ, USAO and Task Force persons who have played principal roles in the matter.⁷ The document production made in response to my November

⁶ Obviously, both offices are the "Department of Justice." The distinction drawn here is to promote ease of reference to the people in Main Justice in Washington and the U.S. Attorney's Office in Atlanta.

⁷ My November 2, 1992, letter to Attorney General Barr is submitted herewith as Exhibit 9.

2 letter and Terwilliger's November 3 memorandum totaled approximately 70 boxes. Nearly all of these documents have been reviewed by us and computerized by the FBI onto its database. Every effort has been made to retrieve and review the significant information.

3. In addition to the foregoing materials, I have received approximately 30 boxes of documents from DOJ that have been gathered over the last several months for production in response to numerous subpoenas by Congressional Committees reviewing the BNL matter. All of those documents have been organized, reviewed, and analyzed and have been considered by me in preparing this Report.

4. To assure that the foregoing production did not result in any inadvertent omissions, I made frequent requests for specific documents and other information, both formally and informally, from attorneys at the DOJ and the USAO. My November 2 letter is an example of this.

5. I have also obtained and read transcripts of relevant Grand Jury testimony in the BNL prosecution, the several hundred pages of Drogoul de-briefing materials commencing in August 1989, and the various prosecution and status memoranda and drafts of Indictments that preceded the Indictment returned on February 28, 1991. I further directed the USAO to document its handling of the BNL prosecution and to prepare a response to the charges made against the office by Judge Shoob. Special Agent Arthur J. Wade of the Atlanta Task Force was also directed to provide me with a

document summarizing the BNL investigation as he, as a member of the Task Force, saw it.

(c) Central Intelligence Agency Documents -- Shortly after my appointment I spoke with Director Gates and, thereafter, I met with Mr. Frederick P. Hitz, the Inspector General for the CIA, to outline my requests for documents pertinent to the intelligence issues involved in my investigation. FBI agents, my staff, and I further defined my requests by letter and telephone. After responsive materials were produced by the CIA, FBI agents then interviewed the persons making the production to be sure that a full and complete search for relevant materials had been made. These documents, as well as other information provided by the CIA, have been reviewed and analyzed by my staff and me.

(d) Other Agency Documents -- Requests also were made for relevant documents from the White House (including the National Security Council ("NSC"), the National Security Agency ("NSA"), the Defense Intelligence Agency ("DIA"), the Department of State ("DOS") and the Department of Agriculture ("USDA")). Those agencies have produced documents to the FBI agents, who thereafter carried out interviews to ensure that full and complete searches and document production had been fulfilled. These documents also have been reviewed and analyzed by my staff and me.

(e) Congressional Committee Materials -- I requested permission to review potentially relevant materials gathered by certain Congressional Committees that have investigated the BNL matter. As I have stated, Senator Boren, the Chairman of the

Senate's Select Committee on Intelligence, was most cooperative and we were able to review various materials gathered by that Committee. I was denied permission to review non-public documents and other materials in the possession of the House Committee on Banking, Finance, and Urban Affairs; however, Mr. Ross, as mentioned previously, was helpful in other respects.

Interviews and Sworn Testimony

As part of my inquiry into the intelligence information issues raised in my Letter of Appointment, as well as issues relating to the handling of the prosecution itself, we examined the following witnesses, most of them under oath. All of these examinations were transcribed, and, along with Part II of my Report, are classified. Many of these witnesses were also initially interviewed by FBI agents to obtain background information that I thought would be useful in the later stenographically recorded interviews. What follows is a list of those examined:⁸

Department of Justice

- William P. Barr, Attorney General;
- Robert S. Mueller III, Assistant Attorney General, Criminal Division;
- Laurence A. Urgenson, Deputy Assistant Attorney General, Criminal Division;
- Mark M. Richard, Deputy Assistant Attorney General,

⁸ Virtually all of the attorneys in the DOJ and USAO are career prosecutors with many years of experience. I have attached hereto, as collective Ex. 10, the curriculum vitae of each individual who submitted one to me.

Office of International Affairs;

- Peter B. Clark, Deputy Chief, Fraud Section, Criminal Division;
- Nancy J. Brinkac, Trial Attorney, Fraud Section, Criminal Division;
- F. Dennis Saylor, Special Counsel to the Assistant Attorney General, Criminal Division; and
- Jerry Rubino, Chief of Security, Department of Justice.

Ellen R. Maltzer, a Senior Trial Counsel in the Fraud Section, Criminal Division, refused to submit to any interview, sworn or unsworn, before a stenographer. I have relied on reports of her interviews by the FBI.

USAO

- Gerrilyn G. Brill, First Assistant United States Attorney, Criminal Division, and Acting United States Attorney on the BNL prosecution;
- Gale McKenzie, Assistant United States Attorney, lead prosecutor in the BNL matter;
- Rimantas Rukstele, former First Assistant United States Attorney and Acting United States Attorney in early 1990; and
- Randy S. Chartash, Assistant United States Attorney, who assisted Ms. McKenzie.

Members of the USAO submitted to interviews before a stenographer under an agreement whereby each would be permitted to review the transcript and attest to its truth. Ms. Brill and Ms. McKenzie reviewed their transcripts, made certain modifications and attested to the truth of their statements. Mr. Rukstele swore to the truth of his statements under oath. Mr. Chartash reviewed and modified his transcript, but did not attest to its truth.

USDA

- Arthur J. Wade, Office of Inspector General, United States Department of Agriculture, a member of the USAO Task Force.⁹

CIA

- David A. Holmes, Deputy General Counsel;
- W. George Jameson, Assistant General Counsel, Litigation;
- Bruce M. Cooper, Attorney;
- DI#3 [name and position classified];
- DO#1 [name and position classified];
- DO#3 [name and position classified]; and
- DO#6 [name and position classified].

National Security Agency

- Stewart A. Baker, General Counsel; and
- J. Lionel Kennedy, Attorney.

Defense Intelligence Agency

- Robert H. Berry, Jr., General Counsel.

FBI

- James C. Frier, former Legal Attache, Rome; and
- Robert R. Peter, former Assistant Legal Attache, Rome.

Drogoul's Attorneys

I endeavored to speak to Jay Strongwater, Esq., whom the Court recently appointed as counsel for Drogoul, and to Sheila Tyler, Esq., who represented Drogoul prior to and during the

⁹ In addition to Mr. Wade, the other members of the Task Force were interviewed.

plea entry proceedings before Judge Shoob, in the many days of his debriefing following the entry of his guilty plea, and until she was replaced as counsel by Bobby Lee Cook, Esq. Both Mr. Strongwater and Ms. Tyler declined to discuss the case with me. Mr. Cook and I have exchanged telephone calls. Due to time constraints, I was not able to visit with him in his office. We did speak on December 4, 1992, and during that conversation I asked Mr. Cook if he had any documents he wished to share with me. Mr. Cook indicated that he did have some documents at his office and I arranged to have two FBI agents retrieve those documents on December 7, 1992. Those documents have been reviewed.

Other Interviews on the Intelligence Matters

As noted above, FBI agents conducted numerous interviews to ensure that document production was full and complete, and to provide background information from many of the witnesses listed above. Due to the time pressures on my staff and me, I had FBI agents also conduct full interviews of witnesses on various substantive matters, principally on the intelligence information issues referred to in my Letter of Appointment. A list of these interviewed individuals is submitted herewith as Exhibit 11.

Interviews on Other Issues

My staff and I also personally have spoken to, interviewed or deposed under oath, the following people on the handling of the BNL prosecution and related questions:

- James A. Baker, III, Former Secretary of State and President Bush's Chief of Staff;

- Lawrence S. Eagleburger, Assistant Secretary of State;
- The Honorable Marvin H. Shoob, United States District Judge;
- Raffaele Montaldi, Italian Magistrate;
- Giampiero Cantoni (Chairman) and Davido Croff (Managing Director), BNL;
- Lamberto Dini, Director General of the Bank of Italy;
- Richard Thornburgh, Former Attorney General; and
- Nicholas Rostow, Special Assistant to the President, NSC Legal Advisor.

THE REMAINDER OF THE REPORT: PART I

The structure of the remainder of Part I of this Report is as follows:

- I. The Beginning of the BNL Matter
- II. A Broad Review of the BNL Matter
- III. The Indictment
- IV. More Details About BNL-Atlanta Wrongdoing
- V. The Government's Investigation and Prosecution of the Matter
- VI. The Foreign Policy of the United States -- Did It Affect the Government's Investigation and Prosecution?
- VII. Issues Raised by Judge Marvin H. Shoob
- VIII. Allegations Lodged by Congress and the Press
- IX. The Unclassified Cable Story
- X. Legal Analysis and Conclusions

I. THE BEGINNING OF THE BNL MATTER

During the last week of July 1989, counsel for two then

unidentified employees of an unnamed "bank" advised the USAO of certain activity at their institution that, according to the Atlanta Federal Reserve Office, appeared to present a threat to the stability of the world's monetary markets. When the "bank" could not be identified through federal investigative agencies, banking regulatory agencies, or otherwise, the two employee-informants were given non-prosecution agreements and the "bank" was then revealed to be the Atlanta agency of BNL. The employees were Mela Maggi, Assistant Vice President/Money Market Trader charged with funding all of BNL-Atlanta's unauthorized transactions, and Jean Ivey, Assistant Vice President/Lending Officer.

What followed during the next several days is a tribute to the dedication and stamina of the USAO, the Federal Reserve and the federal agents assigned to the matter, as demonstrated in part by the search warrant application (with its supporting affidavits) which, when granted and executed on August 4, 1989, "broke" the case open and exposed a scheme of breathtaking scope and audacity.¹⁰

As confirmed by Robert Kennedy ("Kennedy") of the Federal Reserve and Lamberto Dini ("Dini"), Director General of the Bank of Italy, on August 3, 1989, at 7:15 a.m. New York time (1:15 p.m. Rome time), Gerald Corrigan ("Corrigan"), President of the Federal Reserve Bank in New York, telephoned Dini to tell him of possible problems at the United States branch of an Italian bank, and that

¹⁰ The search warrant application (with supporting affidavits) is a model of detail and thoroughness. A copy is included in this Report as Ex. 12.

officials from the Federal Reserve might be travelling to Rome to meet with him.

On Friday, August 4, 1989, at 2:51 a.m. New York time (8:51 a.m. Rome time), Corrigan called Dini to say that persons from the Federal Reserve would shortly be arriving at the Bank of Italy. At 3:30 p.m. New York time (9:30 p.m. Rome time), three Federal Reserve officials arrived at Dini's office and advised him of the BNL-Atlanta situation. Concern was expressed for the liquidity of BNL and the possible disruption of the New York Interbank Payment System, because they had been advised that BNL-Atlanta had financed very substantial amounts of Iraqi credits with short-term borrowings from other banks. Over that weekend precautions were taken to meet this concern. Dini was told that the FBI and the Federal Reserve would conduct a search of the BNL-Atlanta office that afternoon at about 4:30 p.m. New York time (10:30 p.m. Rome time), after the close of the U.S. financial markets, and it was insisted that he hold this information in confidence until after the search was commenced. It appears that Dini complied with this directive.

After the meeting with the Federal Reserve representatives, Dini called Nerio Nesi ("Nesi") and Giacomo Pedde ("Pedde"), the then Chairman and General Manager of BNL, respectively, requesting that they come to his office at the Bank of Italy at 10:30 p.m. Rome time, the scheduled time of the commencement of the search in Atlanta. Dini, in my meeting with him on November 2, 1992, assured me that he did not tell them at

this time that the purpose of the meeting was to advise them that BNL-Atlanta was in trouble.¹¹

At 4:50 p.m. New York time (10:50 p.m. Rome time), the FBI and the Federal Reserve representatives entered the premises of BNL-Atlanta. Concurrently, Nesi and Pedde arrived at Dini's office where they were to learn of the problems at BNL-Atlanta. Dini believes that the meeting took place sometime after 10:30 p.m. Rome time. Dini, in testifying before the Italian Parliamentary Committee (convened to review the BNL matter), and in conference with me, has stated that he believed that, given their reaction when they heard the news, neither Nesi nor Pedde had prior knowledge of the "wrongful"¹² activities of BNL-Atlanta.

The search validated the informants' information. Within a few weeks, having perceived the vast implications of the apparent wrongdoing, the USAO formed an investigative Task Force consisting of one or more very experienced representatives of the FBI, Federal Reserve, Customs, Department of Agriculture Inspector General and

¹¹ I explored this set of facts very carefully because of media allegations that BNL officers in Rome had been "tipped off" to the raid by Dini. I am satisfied that this did not happen. However, if it did, I have seen nothing to indicate that the subsequent investigation was thereby adversely affected.

¹² A word of explanation is necessary. Throughout this Report, I will refer to the scheme involving BNL-Atlanta's concealed lending activities as a "scheme," or "wrongful," or "unauthorized." The fact remains, however, that if these activities were permitted by BNL, a subject I will cover at a later point, then they were not "unauthorized," although in some respects, *e.g.*, false reporting to governmental agencies, they still may have been "wrongful." The term "scheme," of course, may or may not denote criminal activity, depending on the context within which it is used.

Internal Revenue Service. This strategy was a wise one. From that time on the USAO and this Task Force worked closely¹³ throughout the course of the investigation.¹⁴

II. A BROAD REVIEW OF THE BNL MATTER

BNL, Italy's largest bank, with 424 branches, is headquartered in Rome. At times pertinent to the critical events here, BNL was not a corporation but rather a Public Law Institution founded in Italy in 1913, having a status similar to agency status in the United States. As of July 31, 1989, and during the course of the charged scheme, 96.5 percent of BNL was owned by the Departments and Institutions of the Republic of Italy.

At all pertinent times, BNL-Atlanta was a small branch office, with only 19 employees in August 1989 when the activities central to this matter were discovered. It was chartered by the State of Georgia in March 1982, and its function was to finance large commercial customers. Its deposits were not insured by any governmental entity and its operations were supposedly confined to eleven southeastern states. BNL-Atlanta was under the direction and supervision of BNL's North American Regional office in New York and the headquarters in Rome.

The State of Georgia had primary responsibility for

¹³ See the submission of Arthur J. Wade ("Wade"), Office of Inspector General of the USDA, Task Force member, to Lacey (Ex. 13.)

¹⁴ For the discussion of the government's handling of the investigation after August 4, 1989, see, *infra*, "The Government's Investigation and Prosecution of the Matter," at Section V.

licensing, oversight and supervision of BNL-Atlanta. However, the Board of Governors of the Federal Reserve System also had some regulatory control over it and annually examined it, usually in cooperation with the examiners from the Georgia Department of Banking and Finance.

Following the search on August 4, 1989, and prior to the Indictment's return on February 28, 1991, an intensive investigation was conducted by the USAO, its Task Force, the Department of Justice in Washington, and the FBI, into the activities of BNL-Atlanta in connection with over \$5.5 billion in loans and letters of credit, made largely to benefit institutions and entities controlled by the Government of Iraq and their borrowers or trading partners. All of these transactions violated BNL's published rules forbidding, in certain cases, the making of any such loans and, in other cases, limiting the amounts and terms of loans permitted to be made.

The investigation revealed that through a variety of means, including forgery, falsification and maintaining a parallel set of secret books and records (the "grey books"), BNL-Atlanta's officers and employees made and accepted loans and letters of credit through that branch. The transactions were not recorded on its regularly maintained books and records, were not reported to BNL's regional or headquarters facilities, and were not disclosed to either BNL's internal or outside auditors, to state regulators,

or to federal or Italian governmental authorities.¹⁵ These massive transactions and their concealment continued from late 1985 through August 4, 1989, when the search warrant was executed.

III. THE INDICTMENT¹⁶

The present Indictment was returned February 28, 1991. It named the following defendants:

A. Officers And Employees Of BNL In Atlanta

1. Christopher P. Drogoul ("Drogoul")

Drogoul was First Vice President and manager of BNL-Atlanta from 1985 through August 4, 1989. He was the central figure of the investigation. He had worked for the Atlanta office of Barclays Bank, and then joined BNL's Atlanta agency in 1981 as a loan officer. Drogoul became Acting Manager in April 1984. Presently confined without bail, Drogoul had a residence in Georgia and holds both French and United States citizenship. His father resides in Europe and may have been involved with his son in certain of the unlawful activities here alleged; the USAO has named him a co-conspirator, although not a defendant.¹⁷ The Indictment charges that Drogoul organized and maintained a conspiracy to obtain money fraudulently from BNL, largely for the benefit of the

¹⁵ See USAO Analysis, Ex. 14 at 20-29. It should be noted that this Exhibit has been refined to conform with Fed.R.Crim.P. 6(e) restrictions and to protect ongoing investigations. See also, Ex. 13 at 10-19.

¹⁶ A copy of the Indictment is submitted herewith as Ex. 15.

¹⁷ Information about the father is set forth in Part II of this Report.

Iraqi government or government-owned banks and suppliers of goods to Iraqi entities, and that he expanded the scheme to include other beneficiaries of secret and unauthorized lending.

2. Thomas M. Fiebelkorn ("Fiebelkorn")

Fiebelkorn was Vice President and Corporate Lending and Business Development Officer at BNL-Atlanta throughout the period of the charged conspiracy. He worked with Citizens and Southern National Bank in Atlanta before joining BNL's Atlanta agency. At BNL-Atlanta he directed and participated in many of the false entries, omissions and technical cover-ups in the conspiracy charged. He is a citizen of the United States. Fiebelkorn pleaded guilty to two Counts of the Indictment and had been awaiting sentence, but has now moved to withdraw his plea.

3. Therese Marcelle Barden ("Barden")

Barden served as Vice President and Operations Officer at BNL-Atlanta after over 30 years of banking experience in the areas of operations and reporting. She made or supervised the making of many of the false entries, reports and acts of concealment in the conspiracy. She is a French citizen with permanent resident status in the United States. She pleaded guilty to two Counts of the Indictment and is awaiting sentence.

4. Leigh Ann New ("New")

New was first hired as a letter of credit clerk at BNL-Atlanta in 1987. In February 1988, she was selected by Drogoul as his secretary and administrative assistant, in which position she played a major role in furthering the conspiracy. She fabricated

and falsified documents, entries and reports, and sent and received fraudulent wire and written communications. New is a citizen of the United States. Her role put her at the center of communications and concealments in the charged conspiracy. She pleaded guilty to one Count of the Indictment and is awaiting sentence.

5. Amadeo DeCarolis ("DeCarolis")

DeCarolis served as Operations Assistant at BNL-Atlanta, reporting to Barden. He dealt with computer reports and accounting entries, supplying and entering much of the false data provided to BNL's other offices through computer-generated reports and transmissions. He and New also flew to Iraq in early 1989 as part of an attempt to conform BNL-Atlanta's secret "grey books" with the defendant Iraqi bank's records, when BNL-Atlanta's "grey books" could not account for all of the unauthorized loans and letters of credit. DeCarolis is a citizen of the United States, residing in Georgia. He has pleaded guilty to two Counts of the Indictment and is awaiting sentence.

B. Other Defendants

1. Entrade International Ltd. ("Entrade")

Entrade is a New York-based trading company dealing in the international trade of goods and commodities. Entrade is a wholly-owned subsidiary of several other companies, themselves wholly-owned by Enka Holding Investment Company, Inc. ("Enka") of Istanbul, Turkey, a diversified Turkish conglomerate. Entrade obtained unauthorized financing from BNL-Atlanta for exports to

Iraq and for other purposes, often with United States government export guarantees or insurance. Entrade provided money and things of value for the personal use and benefit of BNL-Atlanta officers and employees in consideration for the unauthorized loans made to finance Entrade's exports to Iraq and elsewhere. Its New York City offices are no longer open. Entrade pleaded guilty to several Counts of the Indictment, was sentenced to a fine of \$1 million, and required to make restitution of \$5 million.

2. Yavuz Tezeller ("Tezeller")

Tezeller is or was the Executive Vice President of Entrade and Manager of its New York office. He directed Entrade's contacts with BNL-Atlanta, and with other entities in Europe and the Middle East owned by Entrade's parent holding company, Enka. He is a Turkish citizen, is now a fugitive, and is believed to be living in Turkey. He played a key role in bribing both Drogoul and cooperating defendant Paul Robert Von Wedel.

3. Rafidain Bank ("Rafidain")

Rafidain is an Iraqi government-owned commercial bank. It arranged or facilitated trade finance transactions for Iraqi government entities and their non-Iraqi suppliers of goods and services by acting as an originating or issuing bank, or taking the credit risk of funds advanced on behalf of these entities by other banks such as BNL-Atlanta. Thus, Rafidain acted as an originating bank to arrange financing for Iraqi purchases, guaranteed by the USDA through the Commodity Credit Corporation ("CCC"), and for imports by Iraqi government ministries and enterprises. Letters of

credit originated by Rafidain were then assigned to BNL-Atlanta and concealed on its books from BNL official reports and reports to United States government agencies, including the Federal Reserve System. Rafidain is located in Baghdad, Iraq.

4. Sadik E. Taha ("Taha")

Taha is both the Director General for Agreements and Loans of the Central Bank of Iraq ("CBI") and the Director General per power of attorney for Rafidain. Taha worked for the Baghdad offices of CBI until November 1988, when he moved to England for a heart transplant operation. He then maintained his London base, often travelling to the United States to meet with Drogoul until June 4, 1990, when the London Financial Times reported his possible indictment in Atlanta. His death was reported two days later, but no official confirmation of death has been obtained. Since then there have been reports that he is in Moscow. Taha was or is an Iraqi citizen.

5. Abdul Munim Rasheed ("Rasheed")

Rasheed is the Director General for Investments of Rafidain and for CBI. He is an Iraqi citizen believed to be living in Baghdad, Iraq.

6. Safa Haji J. Al-Habobi ("Al-Habobi")

Al-Habobi holds or held several high positions in the Iraqi government, including Director General of the Al-Nassar Complex of the Iraqi Ministry of Industry and Military Production

("MIMP");¹⁸ Chairman, President, Director and Vice President of various Iraqi-controlled corporations in England and the United States, including the Matrix-Churchill entities; and Commander in the Iraqi military establishment. Al-Habobi operated both from London and Baghdad as an agent of the Iraqi government and obtained financing from BNL-Atlanta for goods and services to benefit the Iraqi economy and military. Upon learning of the search of BNL's Atlanta offices, he returned to Baghdad. He is an Iraqi citizen.

7. Raja Hassan Ali ("Ali")

Ali is a senior officer of the government of Iraq. He is the Director General of the Economic Department of MIMP. Ali is an Iraqi citizen believed to be living in Baghdad, Iraq.

C. Cooperating Individuals

1. Paul Robert Von Wedel ("Von Wedel")

A former Vice President and Trade Officer at BNL-Atlanta, Von Wedel had extensive banking experience with Citizens and Southern National Bank, Atlanta, in the areas of foreign bank letters of credit, commodity financing and trade finance. He actively participated and assisted Drogoul in managing the conspiracy during its initial stages. Von Wedel, a United States citizen, pleaded guilty to two felony charges, and has actively cooperated with the USAO investigation. He is awaiting sentence.

¹⁸ The MIMP is also known as the Ministry of Industry and Military Industrialization ("MIMI"). MIMP was created in 1987 by the merger of the Ministry of Industry with the Establishment for Military Production. The new Ministry is headed by Hussein Kamil Hassan, the son-in-law of Saddam Hussein.

2. Mela Maggi ("Maggi")

Maggi was an Assistant Vice President of BNL-Atlanta in charge of the money desk that provided funds for both official and "grey book" loans. She participated in both the early "in-and-out" transactions, before the "grey books" were adopted, and in the subsequent invention and operation of the "grey books." As has been noted, she and Jean Ivey were the two initial informants on the case and were granted non-prosecution letters in return for their active cooperation.

3. Jean Ivey ("Ivey")

Ivey assisted Maggi in the money desk activity, raising money for unauthorized loans by soliciting telephone and wire deposits or loans from other financial institutions in the amounts requested by other BNL-Atlanta employees and officers. Like Maggi, she has been issued a non-prosecution letter in return for her active cooperation.

D. The Counts

The Indictment charges an overall conspiracy in Count One, related to the substantive charges which follow in Counts Two through Three Hundred Forty Seven. The substantive Counts include charges based upon:

1. Mail and wire fraud

18 U.S.C. §§ 1341, 1343: forming and carrying out a scheme to obtain money and property by false pretenses through unauthorized making of billions of dollars in loans and credits unauthorized by BNL's rules and policies, falsifying books and

records to conceal the deception, and to defraud the USDA of a CCC export payment guarantee and valid performance bonds.

2. False statements

18 U.S.C. § 1001: making false statements to the Board of Governors of the Federal Reserve System, the United States Treasury, the Export-Import Bank of the United States, and the General Accounting Office in reports to and audits and examinations by those agencies.

3. Fraud on the CCC

15 U.S.C. § 714m: making false statements to the CCC regarding a payment guarantee and eligibility for participation in CCC programs.

4. Interstate transportation of stolen money

18 U.S.C. §2314: interstate transportation of money taken from BNL by fraud and deception.

5. Forgery

18 U.S.C. §493: forging documents purporting to be CCC payment guarantees and Central Bank for Cooperatives ("CoBank") participation certificates.

6. Tax evasion by Drogoul

26 U.S.C. §7201: evasion of individual federal income tax liability for 1987 and 1988 by failing to report or withhold or make estimated tax payments on income from gratuities and kickbacks paid to Drogoul by Entrade.

E. A General Overview Of The Scheme

The Indictment states that the underlying purpose of the

charged activity was to arrange for billions of dollars in funding for Iraq¹⁹ and other borrowers while misrepresenting to auditors, examiners, the United States and Italian government entities, and BNL-Rome management, that BNL-Atlanta was operating within all applicable lending limits and in accordance with safe and sound banking practices; and to solicit unsecured funding for the MIMP through a London-based procurement network active in the United States and elsewhere. It should be noted that over \$1.9 billion of these unauthorized and concealed extensions of credit were for countries (and entities within those countries) other than Iraq.

While the unauthorized "off-book" BNL-Atlanta funding to Iraq began in 1985 as financing for agricultural products under USDA CCC programs and for unsecured freight, it had evolved by early 1988 into totally unsecured credit extensions and agreements (referred to as Medium Term Loan Agreements or "MTLs") totalling \$2.155 billion with CBI. These transactions were, in all likelihood, intended for primary use by the MIMP. Only half of this later funding can be traced to specific purchases. The funds from the remaining half of these unsecured credit extensions and agreements were utilized by Iraq to simply transfer cash to a series of CBI clearing accounts, which effectively concealed their final destination and actual usage. It may be fairly assumed that substantial sums thus obtained were disbursed for military or military-related items.

¹⁹ While contrary to BNL rules, there would be nothing inherently illegal in BNL extending very substantial uncollateralized credits to Iraq during the conspiracy period, had it chosen to do so.

The USAO's position is that the existence of a unique set of circumstances at BNL-Atlanta made it possible for BNL-Atlanta employees to extend billions of dollars of credit without the knowledge of the management of BNL-Rome or governmental regulatory agencies, as follows: The presence of a "money desk" in the agency made it possible for officials at BNL-Atlanta to borrow money directly and control the sources for that funding; at the time BNL-Rome enjoyed an AAA bond rating from Moody's, a rating extended to only one American bank, which made it possible for the BNL-Atlanta money buyer to utilize various money brokers to borrow hundreds of millions of dollars from the world money markets at or below the London Inter-Bank Offering Rate ("LIBOR") on a daily basis;²⁰ the complicity to some degree of every employee at BNL-Atlanta, which eliminated any cross-checks by department function within the agency; the turnover of regional managers at critical times; and BNL-Atlanta's conversion from one computer system to another.

Audits conducted by various entities -- BNL itself, BNL's outside auditors, the Georgia State Banking Department and the Federal Reserve all failed to uncover the scheme. A report

²⁰ As noted above, Maggi and Ivey operated BNL-Atlanta's "money desk." As the scheme needed money to pay out to Iraqi banks, enterprises or exporters to Iraq, Maggi and Ivey would receive lists of the dates and amounts required. They then telephoned money brokers in the legitimate Interbank Funds ("IBF"), purporting to extend the credit of BNL's "AAA" credit rating. The brokers solicited funds from banks and other financial institutions in the United States and elsewhere by quoting the interest rates and periods-to-maturity offered by Maggi and Ivey. Funds raised were wire-transferred to BNL-Atlanta's holding accounts at Morgan Guaranty Trust Company and ultimately disbursed to Iraqi banks and their exporters through separate wire transfers. (Ex. 13 at 15-17.)

prepared by the Federal Reserve after the search, however, described the BNL-Atlanta branch as "unsatisfactory based upon the condition of its risk assets, internal controls and management function." (Uniform Report of Examination for Branches and Agencies of Foreign Banking Organizations, with examination data as of August 31, 1989.) Other banking reports were similarly harsh in their criticisms of BNL's audit controls. (See Translation of Report of Minister Carli to the Finance Commission of the Italian Senate on December 14, 1989, at 6 ("The final study now confirms the weaknesses of the Bank's internal structure which permitted such events to unfold.").)

IV. MORE DETAILS ABOUT BNL-ATLANTA WRONGDOING

It should be noted at the outset of this discussion that Drogoul, as Manager and First Vice President of BNL-Atlanta, was specifically limited in his authority to act on BNL's behalf with respect to the types, amounts, terms and borrowers on various types of loans and credits.²¹ These rules and procedures included BNL's "signature book," which was also provided to borrowers, including Rafidain and CBI, so they would be fully aware of the limits on the authority of individual BNL officers with whom they dealt. For example, the Iraqis knew that the third and fourth MTIs, signed only by Drogoul and not by a second officer, were therefore violative of BNL rules. Drogoul and the other Atlanta officers and

²¹ He had as did other U.S. branch managers, a general power of attorney to act on behalf of BNL. Nonetheless, he and the other branch managers also had to sign a document that their authority was limited by BNL's rules.

employees were fully aware of these rules and procedures. Relevant limits included the following:

1. Drogoul was personally authorized to make unsecured loans not exceeding \$500,000. Loans above that amount required approval in New York or Rome, according to type and size.
2. No loans or credits to Iraq were authorized, unless they were 100% collateralized by cash or cash equivalents. Loans without such collateral were expressly forbidden.
3. Any loan exceeding \$500,000 required the signatures of at least two officers of BNL-Atlanta. No single officer was empowered to lend above that limit, or to accept liability above that limit in any form, including issuing or confirming a letter of credit.
4. No loan for over \$2,500,000 could be made by BNL-Atlanta, even with two officer signatures, unless further approved by designated officers in New York or Rome.
5. All loans were required to be in writing, and to be accurately entered in and reported on the books and records of BNL-Atlanta and its regular reports to BNL-New York, BNL-Rome, and to federal and state regulators and examiners.
6. BNL-Atlanta was required to maintain its books, records and reports using the bank's standard computer-based accounting system and terminals. It was not authorized to keep separate or parallel books, records or accounts on freestanding computers and/or word processors. A standard set of accounts and reporting formats was prescribed for mandatory use.

In 1985, Drogoul negotiated a \$13 million unauthorized assumption of unsecured Iraqi risk for a large grain company. On December 15, 1985, Drogoul also agreed to fund \$556 million in

agricultural commodity purchases by the government of Iraq under the USDA CCC programs for Fiscal Year 1986. Approval was neither sought nor received from Rome before Drogoul signed this \$556 million agreement.²² Thereafter, on April 18, 1986, Drogoul sought approval from Rome to fund \$100 million of the \$556 million that he had committed. Approval was denied by Rome three days later.

As Drogoul explained in the written statement he prepared after the August 4, 1989 search for his then counsel, Arnall, Golden & Gregory ("AG&G") of Atlanta, this marked the beginning of BNL-Atlanta's eventual exposure to Rafidain in excess of the limits established by Rome. (Ex. 16.) Drogoul explained the evolution of his scheme in his own words at pages 48-50 of his statement:

Within two (2) months of signing the Agreement, however, petroleum dropped to USD 9 barrel from its previous level of USD 22 and, in addition, the war between Iraq and Iran intensified. Banks interested in purchasing CCC loans, therefore, began to assess Iraqi risk differently than before, and while they would still purchase the risk, it would be sold at a higher rate than before. Our assessment was that it would cost us in the area of USD 2,500,000 to sell the loans (at prices higher than that which we had committed to the Iraqis).

Hoping that oil would increase in value and that the intensification of the war was only temporary, we elected to wait and see what would happen. We did not wish to dishonor our commitment to the Iraqis especially since we were exposed to Iraq on the freight finance.

²² Neither BNL-Atlanta nor regional management in New York had the authority to extend credit or lend BNL's money to other banks without the specific approval of BNL-Rome. BNL had centralized control of all bank-to-bank lending.

Unfortunately the situation did not change and by mid-1986 the branch had transactions to Rafidain Bank recorded on the records of the branch in excess of the USD 100,000,000 limit.

During my visit to Venice, our Regional Manager Mr. Guadagnini was criticized by his superior for allowing the Atlanta Branch to maintain a considerable excess for Rafidain Bank My regional manager sat down with me there and told me clear up the problem.²³

Upon my return to Atlanta, Paul [Von Wedel], Theresa [Barden], Robert [Post], Mela [Maggi] and I decided that the best way to handle the situation would be to skip the excess amounts off the books on the last day of the month, i.e., on the day the computer reports were examined by Rome.²⁴

We continued the process of "skipping" for many months. During the intervening time there was always the risk that Rome or New York would see the true exposure.

As the exposure continued to grow well in excess of the line we always sought ways to sell the "skipped" or soon to become "Grey"

²³ Indeed, Drogoul was repeatedly warned that formal authorization from Rome was mandatory even for loans guaranteed by the United States Government (i.e., CCC) and that approved credit lines could not be exceeded.

²⁴ Because of this "skipping" (or "slippage," as it was sometimes referred to by BNL-Atlanta employees), Drogoul felt comfortable in assuring management that his Fiscal Year 1985 \$100 million CCC authority had never been exceeded, as follows:

Total \$93,206,495.61 [CCC for Iraq Rafidain]. We wish to point out that these figures have been triple checked by us and that they reflect our outstandings under this facility. The final maturities are accurate. Previous reports, which have required that we reflect manually month by month maturities under each loan, were not accurately reflected. We apologize for this error.

(Telex from Drogoul to Boldrini (BNL-Rome), November 13, 1987, submitted herewith as Ex. 17.) When Drogoul sent this telex he had already exceeded his limit by more than \$500 million and signed agreements that exceeded BNL-Atlanta's limit by \$1 billion.

loans.

Months later the bank converted from one accounting system to another (known as the Mantec System), and two (2) data processing people, one of whom was also an auditor, were sent to Atlanta to assist in the conversion of the records.

As they approached the Rafidain Bank loans, all of which were on the books, it became clear that the total value of these loans would be shortly uncovered if some solution was not found.

Again, Paul, Therese, Robert, Mela and I consulted and realized that the only way to solve this immediate dilemma was to "skip" off the loans permanently. This we did and the "Gray" Book was created.

As we found ourselves with the same dilemma when we were required to lend to the Central Bank of Iraq, the same "Gray" method was employed.

After taking his unauthorized loans completely "off book,"²⁵ Drogoul signed agreements in January and October 1987 obligating BNL-Atlanta to fund \$619 million and \$665 million for Iraq's Fiscal Year 1987 and 1988 CCC programs, respectively.²⁶

In 1988 and 1989, the Iraqis decided not to have BNL-Atlanta continue to aid in financing CCC-guaranteed transactions. Instead, in those years, Drogoul agreed with the Iraqis to provide

²⁵ The "gray book" also was known as the "off-book."

²⁶ During the course of his unauthorized CCC funding and thereafter, Drogoul also caused BNL-Atlanta to fund over \$250 million in unsecured and unauthorized extensions of credit for freight and for the purchase of agricultural products, durable goods and raw materials for which Rafidain was the originating bank. In addition, Drogoul caused BNL-Atlanta to fund another unsecured \$70 million for which Rasheed was the originating bank. (Ex. 14 at 12.)

a total of \$2.155 billion in credit extensions under four MTLs. These transactions were purportedly for the purchase by MIMP of, among other things, durable capital goods. As I have noted, there is good reason to believe that many materials used or useful for military purposes were frequently purchased with these funds, which Drogoul came to realize sometime after he had embarked upon the MTL program.

Thus, by way of example, on March 1, 1991, after disclosure that night vision equipment, manufactured by Delft Instruments N.V. ("Delft"), was discovered on captured Iraqi tanks, Delft officials issued a statement advising that the company had in fact exported night-vision equipment to Iraq. The company stated, in part, that an internal investigation had found that their subsidiary, OIP Instrubel, N.V. ("Instrubel"), Oudenaarde, Belgium, had made three shipments of thermal imaging night-vision components, manufactured by Hughes Aircraft Company, Santa Barbara, California, to Iraq and Jordan. Delft further stated that shipments to Iraq were made in December 1989, and April 1990, and the shipment to Jordan took place on December 7, 1990. Delft acknowledged the requirements for U.S. Export Licenses but indicated that no licenses had been obtained.

Review of BNL-Atlanta documents by the USAO revealed that on January 27, 1989, CBI had telexed to BNL-Atlanta a funding request under Option-B (Option-B was a plan agreed to by BNL-Atlanta, CBI and the Iraqi MIMP, wherein a telex would be the only document provided by CBI to initiate a loan). Included in the

request was funding for Instrubel in the amount of 1,356,000,000 Belgian Francs, which at the time of the transaction was equivalent to \$27,777,991. The telex stated that Instrubel would be the supplier of heavy machines and equipment to the Iraqi government establishment for heavy engineering equipment under contract #10.

The USAO tied this transaction to BNL-Atlanta's transfer on March 16, 1989, of United States currency (proceeds of the scheme charged in the Indictment) from its clearing account at Morgan Guaranty Trust Company, New York City, to a CBI clearing account then maintained at Manufacturers Hanover Trust Company, New York City. The amount transferred by BNL-Atlanta was equivalent to the amount requested by CBI in the January 27, 1989, telex after converting the foreign values to United States dollars. The USAO charged Drogoul's use of this CBI account to be money laundering of scheme proceeds in Count 279 of the Indictment.²⁷

Further details of Drogoul's activities -- the various transactions, the concealment, his foreign travels, and other conduct in furtherance of the charged conspiracy -- are set forth in the USAO Analysis (Ex. 14), and in its Sentencing Memorandum (Ex. 18) provided to the Court at the time of Drogoul's Sentencing Hearing. I have reviewed records underlying the BNL-Atlanta transactions, the charges prepared by the USAO, the exhibits

²⁷ In other documents the USAO revealed that its investigation indicated that Iraq had used some funds from the MTLs for the acquisition of materials readily adaptable to military use. In this connection, it referred to the Iraq military procurement network, in which Matrix-Churchill Corp. ("MCC") and Matrix-Churchill Ltd. ("MCL") played key roles.

introduced at the Sentencing Hearing, all of the materials reflecting Drogoul's several statements to counsel and his statements during his numerous debriefing sessions, both in 1989 and 1992, in which Drogoul himself admits to these activities.

In any event, there is little if any dispute as to what Drogoul did in terms of the "off-book" and wrongful activities. The principal dispute relates to whether his conduct was authorized by, or was done with the knowledge of, officers of BNL-Rome.

V. THE GOVERNMENT'S INVESTIGATION AND PROSECUTION OF THE MATTER

The USAO and the DOJ have come under fire for having treated BNL-Rome as a victim of the charged conspiracy, having determined that it did not authorize or have knowledge of the charged activities and was not criminally negligent in failing to discover these activities during the period of the conspiracy. Some have made the additional allegation that this prosecution theory reflected the intrusion of political pressure into Justice Department decisions, or a "cover up" of activities somehow authorized by the United States. I have devoted much time and attention to these subjects in my investigation.

A. Overview

As is traditional, this case originated with the USAO, with DOJ later joining in active consideration of the matter. There was minimal contact between DOJ and the USAO until January

1990.²⁸ Thereafter, there was interaction between the two offices up to and beyond the return of the Indictment on February 28, 1991.

Many factors required DOJ involvement:

1. Procedures requiring DOJ persons to contact the intelligence agencies for intelligence information about BNL;
2. The clearance of immunity requests;
3. The sheer magnitude of the case in dollar terms;
4. The involvement of several federal agencies in the investigation relating to charges ultimately embodied in the Indictment;
5. The necessity for obtaining foreign documents and the testimony of foreign witnesses;
6. The expertise at hand in the Fraud Section of DOJ.

Largely because departing United States Attorney Robert Barr, Jr. ("R. Barr") was pressing for an Indictment before he left office, the USAO in late 1989 had drafted a proposed form. McKenzie, who authored it, successfully opposed presenting it to a Grand Jury at that time. To have filed any Indictment then would have been very unwise. By the end of 1989, it was already obvious that surface had barely been scratched in what was to be a massive investigation in a case of remarkable complexity.

²⁸ It appears that the DOJ first contacted the USAO on October 26, 1989, when Robert Mueller, III ("Mueller") called United States Attorney Barr and McKenzie to obtain information on the BNL case. Ten days later Mueller called again, to receive another update. In mid-December, Trial Attorney (Criminal Division) Wolodymyr Sulzynsky travelled to Atlanta at the behest of John Martin, Chief of the Internal Security Section, Criminal Division at DOJ, to discuss the status of the investigation, presumably because of the "national security" overtones. (Routing and Transmittal Slip from Martin to Mark M. Richard and Edward S.G. Dennis, Jr., dated December 26, 1989; Memorandum from Sulzynsky to Martin, dated December 26, 1989.)

The widespread criticism of the "delay" in returning an Indictment some eighteen months after the search is unfair, and a claim that such a "delay" was attributable to some corrupt motive or political influence, as some have charged, is without support in the record. An experienced prosecutor who reads the massive Indictment will understand immediately the scope of the investigation required just to frame it. The USAO is to be complimented, for my review of the files indicates that the prosecutors only included Counts for which there is abundant supporting evidence.²⁹ The documentation establishes that the prosecutors determined not to seek the return of an Indictment until they felt they had not just "probable cause," but rather proof of guilt beyond a reasonable doubt.

It is clear that USAO and DOJ spent a considerable amount of time and effort independently and jointly considering whether BNL-Rome was a victim of Drogoul's scheme. To understand the prosecutors' determination, I now turn to the events immediately following the search of BNL-Atlanta.

B. The Initial Stage: Autumn 1982

Drogoul had been on vacation in France when he was informed by Von Wedel of the August 4 search. Drogoul immediately called the Iraqis with whom he had worked on the loan transactions, Safa, Taha and Ali, who instructed him to meet them in London the

²⁹ The only caveat I raise at this juncture is related to the decision to treat BNL as a victim.

following day. On August 5, Taha, Ali and others³⁰ met with Drogoul for several hours and after consulting with officials in Baghdad, directed him to return to Atlanta,³¹ although he has stated that he intended to return to the United States in any event. Drogoul travelled to New York on August 7 and met BNL's North American Area Manager, Pietro Lombardi ("Lombardi").³² While in New York, he also met with an attorney representing BNL, who arranged to retain Lackland of AG&G to represent Drogoul. Later that day, Drogoul returned to Atlanta and was discharged by Umberto D'Addosio ("D'Addosio"), General Vice President of BNL-Rome.³³

Over the next few weeks, starting August 8, Drogoul met

³⁰ The other Iraqis who met with Drogoul included MIMP counsel Fadel Kadhum and Deputy Minister Osama Hammadi.

³¹ Drogoul later stated that he realized the Iraqis thought that in this way they would be able to continue to draw on the outstanding Loan Agreement. (Memorandum of Drogoul Interview, dated August 20, 1992.)

³² Many months later, Drogoul described a "look" that he received from Lombardi the day that they met in New York. Drogoul interpreted the look to mean that "we have been found out," as opposed to one of surprise or blame. (Memorandum of Drogoul Interview, dated June 19, 1992.) Von Wedel recalled that Drogoul once had told him that Lombardi knew about the unapproved transactions. (English translation of the "Final Report, Parliamentary Committee of Inquiry on the case of the Atlanta Branch of the Banca Nazionale del Lavoro and its Connections, Communicated to the Presidency on April 22, 1992" (hereinafter "Italian Parliamentary Report") at 141 submitted herewith as Ex. 20.)

³³ On August 9, officials at BNL-Rome (Vice Chairman Salvatore Paoducci and others) travelled to Baghdad where they met with officers from the Central Bank of Iraq for the purpose, they have said, of confirming the balance of the outstanding loans. (Memorandum from C.W. Carson, Principal Examiner, to P. Vincent Conlon, Deputy Superintendent, Foreign Commercial Bank Division, and P. Philben, Deputy Superintendent and Chief Examiner, Commercial Banks.)

regularly with officials from BNL-Rome and BNL's attorney, Bruce Kirwan ("Kirwan") of King & Spalding.³⁴ (Minutes of August 1, 1989 BNL-Atlanta meeting; Minutes of August 14, 1989 BNL-Atlanta meeting; Minutes of August 24, 1989 BNL-Atlanta meeting.) It appears that BNL-Rome representatives also attended all of the meetings at which both USAO and Drogoul were present.

Although R. Barr sought to have the Indictment brought as early as possible, McKenzie recognized that a good deal of investigation was still required and recommended that there be further investigation about various matters, including the "current and potential losses from unauthorized credit transactions under investigation." (Memorandum from McKenzie to R. Barr, dated September 15, 1989.) McKenzie did not suggest in that memorandum that the issue of BNL-Rome's knowledge or complicity be examined.

Nonetheless, she agreed to draft a "bare bones" Indictment that could be filed (and later superseded) in the event Italy attempted to extradite the BNL-Atlanta employees before the USAO was ready to proceed with its own case. (Memorandum from McKenzie to R. Barr, dated September 19, 1989.) She prepared the draft Indictment in October 1989, naming only BNL-Atlanta personnel (Drogoul, Von Wedel, New, Barden and DeCarolus) as defendants, but urged R. Barr not to present the draft Indictment to the Grand Jury

³⁴ The minutes of these meetings indicate that they discussed, among other things, the loans that Drogoul had extended, the Rafidain Bank CCC guarantees, and Option A, B and C credit openings. (Minutes of August 14, 1989 BNL-Atlanta meeting; Minutes of August 16, 1989 BNL-Atlanta meeting.) BNL-Rome expressed concern that it would have to honor the enormous commitments Drogoul had undertaken.

because the Task Force believed the case encompassed "far more than 'regulatory matters.'" (Memorandum from McKenzie to Barr, dated October 31, 1989.)

McKenzie recommended that they await the first week in December, by which time she thought they would be able to present a more comprehensive Indictment containing added counts for (1) false statements to the U.S. Treasury and Export Import Bank ("Eximbank"); (2) a scheme to defraud BNL-Rome; (3) tax counts; (4) Trading with the Enemy Act counts relating to Cuban Sugar; and (5) conspiracy. (Memorandum from McKenzie to Barr, dated October 31, 1989.) R. Barr was adamant that she adhere to that new schedule. (Memorandum from R. Barr to McKenzie, dated November 3, 1989.)

The early Task Force investigation included close to twenty interviews with Drogoul and other BNL-Atlanta employees in which the investigators repeatedly asked them to name anyone, including employees of BNL outside BNL-Atlanta, who might be implicated in the schemes they had employed. Of the other BNL-Atlanta employees identified as targets in the investigation, all contended their actions were for the good of the bank and not for personal gain. Drogoul repeatedly denied the complicity of anyone outside BNL-Atlanta and contended that the loans were good loans, and that there would be no difficulty in getting them repaid.³⁵

³⁵ Early in the investigation, Drogoul also asserted that the Central Bank of Iraq and the Iraqis had no knowledge that he was exceeding his authority (Memorandum of August 10-11, 1989 Drogoul Interview), statements he later retracted. (Memorandum of July (continued...))

(Memorandum of August 10, 1989 Drogoul Interview.) The USAO thus terminated the interviews after only a few sessions because they did not think Drogoul's statements were forthcoming.

By the end of October 1989, McKenzie was prepared to recommend that an Indictment include an 18 U.S.C. § 1343 "scheme to defraud BNL because (1) such charges and proof thereof strikes at the heart of the stated defense in this case and (2) such charges allow introduction of substantial dollar losses suffered by BNL to date." (Memorandum from McKenzie to R. Barr, dated October 31, 1989.) She noted that the U.S. Government had not yet suffered any losses (in part because of the extended due dates on the CCC-guaranteed loans to Iraq), but that BNL's losses were extensive.³⁵ (Memorandum from McKenzie to R. Barr, dated October 31, 1989.)

Throughout the fall of 1989, McKenzie and R. Barr continued to consider new aspects of the case, including the Task Force's investigation of whether Drogoul had operated as a foreign

³⁵(...continued)

13, 1992 Drogoul Interview; see also Ex. 19.) In fact, at one point, Drogoul contemplated executing a mutual defense agreement with the Iraqis. (Id.)

³⁶ BNL had offered significant assistance to the USAO immediately following the August 4 search and met with the Task Force to review documents and reconstruct accounts. BNL had compiled a list of the losses it claimed, which included: (1) absurdly low interest rates; (2) substandard letter of credit fees; (3) an approximate \$6 million reserve penalty sought by the Federal Reserve due to BNL-Atlanta's reporting and reserving failures; (4) attorney and accountant fees, travel, lodging, and other moneys; (6) \$26 million paid on letters of credit due to financing of Cuban sugar; and (7) 50% discounted worth of Iraqi debt on the world market. (See Memorandum from McKenzie to R. Barr, dated October 31, 1989.)

agent.³⁷ (Memorandum from McKenzie to R. Barr, dated November 22, 1989.) McKenzie advised that Entrade should be included as a corporate defendant, but that there was "no evidence that any BNL employee or officer outside Atlanta had knowledge of any portion of the schemes under investigation sufficient to warrant criminal prosecution." (Memorandum from McKenzie to R. Barr, dated November 22, 1989.)

The BNL affair caused consternation among the officers of BNL and Italian politicians. In October 1989, the Chairman and Director General of BNL, Paulo DiVito ("DiVito") visited the American Ambassador in Italy, The Honorable Peter Secchia, and suggested that the matter be raised "to a political level." He expressed BNL's desire to cooperate fully with U.S. government authorities but at the same time made it clear that BNL wanted to achieve some kind of "damage" control. (See e.g. 138 CONG. REC. H8354-8355 (daily ed. September 14, 1992.) It is unclear whether the USAO knew of DiVito's concerns, but McKenzie was obviously aware that the case had sparked substantial interest among high ranking officials at the State Department. According to McKenzie's notes in her "Daily Log," then Secretary of State Baker was most interested in the BNL case and was receiving frequent briefings.³⁸ (Italian Weekly Report, dated October 10, 1989.)

³⁷ McKenzie ultimately decided that she lacked enough evidence to include this charge in the indictment.

³⁸ In the fall of 1989, as the investigation was unfolding, McKenzie kept daily logs in which she recorded telephone calls, leads and searches conducted by various agents.

On December 7, 1989, McKenzie wrote to Molly Worlow, Senior Counsel for International Law Enforcement, Department of Justice, and asked that she provide the names of four Iraqi nationals for dissemination to the Intelligence Community. The Iraqis named were Sadik Hasson Taha, Rajaa Ali, Ahmed Al-Dulaimi and Safa Al-Habobi. She also noted that Hussein Kamil Hassan, the son-in-law of Saddam Hussein, might be peripherally involved. (Memorandum from Worlow to McKenzie, dated December 7, 1989.)

Italian Minister Carli, on December 14, delivered to the Finance Commission of the Italian Senate a report he had prepared, which criticized BNL's internal controls and suggested that BNL-Rome had knowledge of at least some of Drogoul's transactions. (Translation of Report of Minister Carli to the Finance Commission of the Italian Senate on December 14, 1989.) McKenzie subsequently forwarded a copy of the report to Gerrilyn Brill ("Brill"), then Chief of the Fraud Division at USAO. (Routing and Transmittal Slip from McKenzie to Brill, dated December 20, 1989.)

C. Interaction Between USAO And DOJ: Winter 1989 - 1990

McKenzie called Deputy Assistant Attorney General Mark M. Richard ("Richard") in early January 1990, to inform him about a planned trip to Turkey and Italy. She intended to travel to Turkey to meet with representatives of Entrade in order to negotiate a guilty plea and to debrief Tezeller, who had offered to cooperate.³⁹ She also sought to interview BNL-Rome employees in

³⁹ Richard later requested that McKenzie defer the trip to Turkey until he and others at DOJ could evaluate the efficacy of
(continued...)

Italy. In a letter to Zane Kelly ("Kelly"), Federal Reserve Bank in Atlanta, dated January 9, 1990, R. Barr and McKenzie explained that:

The stop in Rome is necessary to speak with a number of BNL-Rome employees, officers, and directors at whom Christopher Drogoul and other key subjects have leveled charges of complicity in their BNL-Atlanta scheme. A Rome setting is required for immediate access to all relevant records which may assist in defeating these spurious claims by subjects of our criminal investigation.

(Letter from R. Barr and McKenzie to Kelly, dated January 9, 1990.)

It was decided that BNL-Rome officials would come to Atlanta with their documents rather than have U.S. agents go to Rome, and the trip was cancelled.⁴⁰ (Memorandum from McKenzie to R. Barr, dated January 18, 1990.) While it is clear that no representatives of either USAO or DOJ ever searched the premises of BNL-Rome, there is no indication that they were precluded from obtaining information that such a search would have disclosed.

On January 26, 1990, McKenzie reported to DOJ on the status of the investigation.⁴¹ At this time, Assistant Attorney

³⁹(...continued)
negotiating a guilty plea with Entrade. McKenzie never made the trip, because a plea agreement was reached in this country.

⁴⁰ Tezeller later refused to cooperate, so it became unnecessary to make the trip at all.

⁴¹ In the same month, BNL-Rome entered into an agreement with the Iraqis in which it agreed to "fulfill its obligations" regarding the "off-book" credits to Iraq from BNL-Atlanta. This agreement, which became known as the "Geneva Agreement," was critical to BNL because the MTLs originally provided that the Iraqis could defer payment of the principal until a final disbursement was made.

General Edward Dennis ("Dennis") headed the Criminal Division, and it was arranged for Senior Litigation Attorney Peter Clark ("Clark") of that Division's Fraud Section,⁴² another experienced prosecutor, to proceed to Atlanta to review the case and its expanding dimensions with the USAO. As set forth in Clark's memorandum of February 12, 1990, his trip led to additional consideration of certain critical issues in the case, such as whether to approve the plea agreement with Entrade and immunity for Tezeller, and whether the proposed charges would preclude any claims against BNL and underscores again why it would have been folly to seek an Indictment until those issues had been resolved.

At this early stage, there emerged what was to become a major dispute between the USAO and DOJ. As I have stated, the USAO had decided in the Fall of 1989 that it was likely that (1) Drogoul and his Atlanta co-workers had defrauded BNL, making the latter the victim of the fraud; and that (2) BNL had no knowledge of the fraudulent activities and had not authorized them. This view was not unsupported: Drogoul had been interviewed on several occasions beginning only days after the August search and had never claimed authorization of his misconduct by BNL. On the other hand, he had -- as he was to do later -- wondered aloud how his superiors at BNL's offices in its regional office in New York and at its headquarters in Rome could not have known of his scheme, given its magnitude.

⁴² The Fraud Section was and is headed by Acting Deputy Assistant Attorney General Laurence Urgenson, also an experienced prosecutor.

Clark was quick to take a view at odds with the USAO. He questioned the quality of the USAO's investigation. He suspected that BNL was knowledgeable of the fraud and might even have authorized Drogoul's activities but noted that the USAO was "very reluctant to charge BNL, primarily because the bank has cooperated fully in the investigation and has questioned the theory under which the Department could charge BNL for the unauthorized acts of its officers and employees." (Memorandum from Clark to Greenberg, dated February 12, 1990.) He, and others in the DOJ Fraud Section, believed that the sheer volume of "gray book" loans to Iraq warranted a more intensive investigation into whether BNL-New York or Rome had authorized, were aware of, or were negligent in failing to detect Drogoul's "off-book" activities.⁴³ The first reason for this was obvious: should facts show that BNL-Rome were involved, the case would require a different cast than that contemplated by the USAO. Second, it was important to pin down the facts on this issue in anticipation of a defense at trial by the BNL-Atlanta targets that their conduct was authorized by BNL-Rome or BNL-New York. (Memorandum from Clark to Greenberg, dated February 12, 1990.)

⁴³ Clark asserted that "the exposure of the United States -- through the CCC financed transactions -- may exceed \$1 billion." He also noted that the U.S. Government charge that BNL was defrauded might preclude a U.S. civil action against BNL in the event that Iraq defaulted on its CCC guaranteed loans. (Memorandum from Clark to Greenberg, dated February 12, 1990.) Clark apparently suggested preserving the government's rights against BNL by either including BNL in the indictment or framing the indictment to avoid characterizing BNL as a victim. (Handwritten notes, dated March 13, 1990.)

In my opinion, the DOJ Fraud Section's advice was not intended to stall or delay return of an Indictment. The advice was sound, the issues raised were significant, and further investigation was clearly required. I note that the responsibility for overall handling of the case and ultimate return of an Indictment remained with the USAO, and that the Atlanta Task Force continued to conduct its investigations under the direction and control of the USAO. The role of the DOJ Criminal Division and its Fraud Section continued to be limited to giving advice and responding to the USAO's requests for information and assistance as required.

On February 23, 1990, the USAO's McKenzie and Rimantas Rukstele ("Rukstele") met in Washington with Urgenson, and together they conferred with representatives from USDA.⁴⁴ After this meeting, Urgenson, Rukstele and McKenzie met with Mueller, to update him on the matter.

McKenzie presented to Urgenson a thoughtful memorandum discussing why, in her view, BNL was a victim of Drogoul's fraudulent acts. Her reasons included: (1) the lack of benefit to BNL-Rome; (2) the personal gain that BNL-Atlanta officers had received;⁴⁵ (3) BNL's diligent internal controls and audits;⁴⁶ (4)

⁴⁴ At the time, USDA considered approving an additional \$500 million in CCC guarantees to Iraq.

⁴⁵ Indeed, USAO later learned that Drogoul received kickbacks from some of the companies with which he dealt (namely, Entrade), and that the Iraqis enticed him with the promise of a top management position at a banking and trading enterprise to be established in London.

the fact that the involved officers went to great lengths to conceal their activities; (5) BNL's full cooperation with the investigation; (6) that there was no loss to the U.S. government, nor were any losses anticipated because under the Geneva Agreement entered into in January 1990 by BNL and the Iraqis, Iraq promised to repay most of the CCC-guaranteed portion of its loans in 1990; (7) that BNL was no more culpable than the Federal Reserve, which also was charged with monitoring BNL-Atlanta and also "should have known" about the fraud; and (8) that BNL was an agency of the Italian government, a sovereign nation. (Memorandum from McKenzie to Rukstele, dated February 23, 1990.)

But Urgenson remained unconvinced by the USAO's theory. Given the massive amounts of the "off-book" loans involved and the fact that this lending had stretched over almost four years, it seemed to him unlikely that BNL-Rome would not have known of at least some of these activities. For his part, Rukstele wanted DOJ to be satisfied with the sufficiency of the evidence, and asked that Urgenson visit Atlanta and review the evidence personally.

Accordingly, from March 20 to 22, 1990, Urgenson, Greenberg and Clark met in Atlanta with McKenzie and the Task Force to discuss, among other things, whether BNL-Rome had been remiss in its supervision of the BNL-Atlanta branch. McKenzie continued to

⁴⁶(...continued)

⁴⁶ It should be noted that at this time, McKenzie had at least one report in her possession, the Carli Report of December 1989, that severely criticized BNL's internal controls. It is likely that she also had the Federal Reserve Board Report of August 31, 1989, which had been finalized sometime in January. BNL's own investigation resulted in the Petti Report, which similarly concluded that BNL's controls were deficient.

take the position that BNL-Rome had been diligent in monitoring BNL-Atlanta's performance.

In this connection, Urgenson met with Federal Reserve representatives on March 22 to review the report of the Federal Reserve's August 1989 examination of BNL-Atlanta. The report confirmed that BNL-Rome had been deceived by Drogoul's activities, but it did not support the USAO's determination that the parent bank had been diligent with respect to internal controls.⁴⁷ The Federal Reserve suggested that "[a] more aggressive internal audit and control program would have aided in uncovering the unreported and apparently unauthorized transactions" and predicted that a soon-to-be-released examination report from the Bank of Italy would assert that "BNL officials in Rome and around the world were knowledgeable of and participated in [the] transactions." (Uniform Report of Examination for Branches and Agencies of Foreign Banking Organizations, with examination data as of August 31, 1989.)

The meetings in Atlanta caused Urgenson to defer the return of a proposed Indictment until further investigation was conducted.⁴⁸ Urgenson requested that the USAO submit a prosecution

⁴⁷ The Federal Reserve found that "BNL lacked any credible controls and procedures that would limit and monitor the activities of its branches" and that "supervision of [the Atlanta] Agency by [the] parent bank's head office and North American management in New York was unsatisfactory and ineffective." (Uniform Report of Examination for Branches and Agencies of Foreign Banking Organizations, with examination data as of August 31, 1989.)

⁴⁸ Among other things, Urgenson suggested that, at some point, the USAO should "lock in" testimony of important witnesses by calling them before the Grand Jury.

memorandum -- a routine practice in complex cases -- on the factual and legal issues involved in the proposed prosecution. USAO and DOJ agreed that the case against certain Iraqis was strong enough to warrant including them in an Indictment.

These foregoing steps were discussed with Rukstale, and he agreed that they should be undertaken. Again, I do not think that there was a plan to delay or suppress a prosecution. Certainly there is not one paper, nor any testimonial evidence, supporting such a supposition. Indeed, my own experience teaches that the decision to defer an Indictment at this point continued to be the right one.

D. The Reaction In Italy

During the month of March 1990, officials of BNL-Rome apparently grew apprehensive that USAO's view of BNL as a victim would not prevail. They thus embarked upon a strategy to persuade officials in the U.S. government that it was inadvisable to indict BNL.⁴⁹

On March 6, Prime Minister Andreotti apparently met with then U.S. Attorney General Richard M. Thornburgh ("Thornburgh") to discuss a broad range of issues relating to Italy and the United States. At the end of a lengthy memorandum briefing Thornburgh in advance of that meeting, Dennis summarily reviewed the status of

⁴⁹ BNL-Rome representatives noted that it was evident that the strategy of cooperating with the prosecutor was "losing its weight" and that instead they should exploit "access to high political levels." (Italian Weekly Report, entry dated March 23, 1990.)

the BNL investigation.

Two weeks later, at a White House social occasion, Italian Ambassador Petrignani apparently told Thornburgh that an Indictment of BNL would "add insult to injury" and would not be "understood" in Italy, because BNL was an organ of the Italian government.⁵⁰ (Italian Weekly Report, entry dated March 21, 1990.) Thornburgh has no recall of any such discussion, and in any case, rejects the suggestion that anyone in the Administration ever approached him to influence in any way the conduct of criminal investigations.⁵¹ (Deposition of Richard M. Thornburgh, December 3, 1992, at 13-14.)

On March 30, 1990, the Bank of Italy concluded its investigative report and sent it to the Federal Reserve in New York. The report was consistent with the Federal Reserve's findings on the inadequacy of BNL's controls and referred to "the possibility that BNL's top management and Head Office may have known of the Atlanta branch's irregular operations," but it did not fulfill the Federal Reserve's prediction that the report would

⁵⁰ On March 17, Petrignani also met with Dennis, Richard and Robin Ross, Chief of Staff of the Attorney General's Office, presumably to discuss the BNL matter.

⁵¹ Attorney General William P. Barr also stated that from the period beginning in May, 1990 (when he became Acting Deputy Attorney General) and thereafter, no person from any U.S. government department or agency outside the DOJ suggested or instructed him to handle the BNL investigation in an inappropriate way, to delay the process or to shield any individual or entity from investigation. (Deposition of Attorney General Barr, December 2, 1992, at 19.) Mr. Barr also said that he never suggested to Mueller that the case be handled in any inappropriate way. (*Id.* at 20.)

implicate BNL-Rome officials. The Bank of Italy report concluded that while managers outside Atlanta had not executed the scheme, the unauthorized loans were made "within an organizational framework of structurally inadequate controls on the activities of the North American branches," and that, in particular, "the procedures for monitoring the account books, which was the responsibility of [an] internal auditor. . . were inadequate." (Translation of Banca d'Italia Report on BNL-Atlanta, undated (conveyed with March 30, 1990 letter).)

E. The Prosecution Memorandum: Spring 1990

In response to DOJ's request, McKenzie and Rukstale drafted a comprehensive Prosecution Memorandum that was delivered to DOJ in late April, 1990. The Memorandum evidenced McKenzie's intent to prosecute the five previously named BNL-Atlanta defendants -- Drogoul, Fiebelkorn, Barden, DeCarolus, and New -- as well as Pierre Drogoul,⁵² Entrade and its employee Tezeller, and the following six Iraqis: Taha, Ali, Toma,⁵³ Rasheed, Al-Dulaimi,⁵⁴ and Al-Habobi. It made no mention of prosecuting

⁵² Christopher Drogoul's father, Pierre Drogoul, was identified as instrumental in facilitating kickbacks from Entrade to Drogoul and Von Wedel, and as having an interest in, or an executive position with, some of the companies receiving "off-book" funding from BNL-Atlanta. (April Pros. Memorandum at 8.) Pierre Drogoul's name was brought up occasionally by the prosecutors as a possible defendant, but he was not included in the final indictment.

⁵³ Abdulahad Petraus Toma was a CBI official who co-signed with Raja Hassan Ali for the third MTL for \$500 million.

⁵⁴ Ahmed Al-Dulaimi was, at the time, the Under Secretary of the Iraqi MIMP.

Rafidain Bank, which was ultimately included in the Indictment, CBI, or BNL-Rome. It referred briefly to Wafai Dajani, a Jordanian businessman, but did not expound upon his role in the illegal transactions.⁵⁵ It also did not mention Matrix Churchill Corporation ("MCC"),⁵⁶ because the prosecution had decided that examination of the consulting fees paid to MCC were part of the investigation's "second phase," and that any charges relating to it would not be included in the initial Indictment. (April Pros. Memorandum at 50.)

In the April 1990 Prosecution Memorandum, McKenzie set forth some of her reasons for not including BNL-Rome among the proposed defendants. Noting that "Federal Reserve Examiners who have become totally familiar with all aspects of the BNL-Atlanta illegal operation since detection cannot, in retrospect, assure that even a full Federal Reserve Examination would have detected the scheme," (April Pros. Memorandum at 84), she reasoned that the work product of the several internal and external auditors would make it very difficult to prove BNL's culpability under the law.

McKenzie also emphasized the policy reasons favoring the BNL "victim" theory: that the defendants would receive higher

⁵⁵ The April 1990 Prosecution Memorandum also discussed the second phase of the investigation, in which McKenzie contemplated charging entirely different defendants with additional Counts.

⁵⁶ MCC, based in Ohio and a subsidiary of U.K.-based Matrix-Churchill Ltd., was part of the Iraqi arms procurement network and acted as a paid consultant or broker while finding U.S. contractors to construct industrial plants in Iraq. (See S.G., U.S. Treasury/UCSC Investigation Report dated February 12, 1990 (Interview of Von Wedel).) BNL-Atlanta apparently provided financing for the plans pursuant to the MTIs. (Id.)

sentences under the Federal Sentencing Guidelines if BNL were treated as a victim; and that otherwise, the roles of Tezeller, Entrade and the Iraqis would be ignored because the only misconduct uncovered in the investigation was their participation in the fraud against BNL. (April Pros. Memorandum at 94-95.)

The Memorandum also discussed at length the Iraqis' complicity in the lending scheme. As evidence both of their complicity, and as further evidence that BNL-Rome was a victim, the Memorandum pointed to the efforts of Drogoul and the Iraqis to hide the scheme from BNL-Rome. It cited as an example the meeting between Drogoul, Von Wedel and Teodoro Monaco, a BNL-Rome representative, in Baghdad. Drogoul had suggested that Monaco and Rasheed meet "in an effort to reopen contact between the Iraqis and BNL." Rasheed, who was heavily involved in transactions with Drogoul, purportedly lamented the fact that BNL did not engage in any lending to Iraq without full collateralization. (April Pros. Memorandum at 47-48.)

Notwithstanding the very substantial effort the April 1990 Prosecution Memorandum reflected, the Fraud Section personnel in DOJ still were not convinced of BNL-Rome's status as a victim.⁵⁷ The sheer size and number of the "off-book" transactions, and BNL-Atlanta's need to deal with international money brokers to borrow funds for these transactions continued to leave Urgenson and Clark concerned that an Indictment on the "BNL as victim" theory would

⁵⁷ Although Urgenson apparently was not certain that BNL-Rome was truly a victim, he did concede that such an analysis might ultimately prove correct.

fail at trial.

Urgenson and Clark also were concerned that the defendants might assert they had engaged in the scheme to improve the profitability of BNL-Atlanta -- and of BNL as a whole -- by making a much larger number and volume of loans than could be done under BNL's official guidelines. If the defendants could point to early indications of unauthorized lending that arguably should have been detected by BNL's senior management, they could claim that BNL's failure to halt the scheme evidenced authorization. Urgenson also thought that, in light of the fact that BNL was owned by the Italian government, the defense might assert that the "off-book" lending scheme had been designed by the Italian government to maintain economic relations with Iraq.

The USAO, however, responded by noting that Drogoul still had not named anyone at BNL-Rome who had authorized what he had done, and that the "off-book" transactions by BNL-Atlanta were so structured that suspicions would not have been aroused. They also contended that the losses on the "grey book" lending were so large and so predictable that no bank would have taken the risk, particularly given Iraq's bad credit rating and the small interest rate spreads and minimal fees involved in the lending.

In the end, DOJ and the USAO could not come to terms with one another, and the DOJ attorneys suggested that a revised Indictment be drafted by the USAO. They also suggested that the USAO theory that the "off-book" loans were not profitable be investigated more thoroughly, and that Drogoul's superiors in BNL-

New York and Rome be called before the Grand Jury. In light of the very different views held by these two groups of career prosecutors, and their conflicting theories about the evidence gathered to date, it would have been unsound to have sought an Indictment at that point.

F. The Investigation: Spring and Summer 1990

In the late Spring, as the Task Force in Atlanta continued to develop and pursue leads in its investigation, Clark continued to question the progress of the investigation. He understood that only one witness had testified before the Grand Jury, even though he and Urgenson had urged earlier that the witnesses be put before the Grand Jury to lock in their testimony. He also understood that the USAO had not interviewed any of BNL's internal auditors. (Memorandum from Clark to Greenberg and Urgenson, dated May 9, 1990.) Clark believed that pursuit of these leads would affect the USAO's analysis of whether individuals in other BNL offices knew, or should have known, about the scheme. His position, of course, reflected DOJ's long-held skepticism about the USAO theory.

In May 1990, representatives from the DOJ and the Task Force, including Richard, Urgenson, Rukstale, McKenzie and Wade, met with State Department and NSC officials, including Nicholas Rostow, Special Assistant to the President and Legal Advisor, NSC. The purpose of the meeting was to keep the Intelligence Community informed of the status of the BNL case. (Partial Attendance List of White House Meeting, dated May 29, 1990.)

During the Summer of 1990, McKenzie was drawn from the case to focus on the retrial of another case she had been handling. The Task Force continued its investigation, drawing intermittently on McKenzie's advice and assistance. In early July, Rukstele provided Richard and Urgenson with a written status report, in which he noted that USAO had agreed to prepare another draft Indictment and a Prosecution Memorandum.

6. The Continuing Debate: Autumn 1990

In September 1990, Italian Ambassador Petrignani renewed his efforts to convince DOJ and the Atlanta investigators that BNL-Rome was not culpable. On September 21, several representatives from DOJ and the Task Force, including Urgenson, McKenzie and Wade, met with the Ambassador, Senator Carta (chairman of the Italian Senate Committee investigation) and Professor Zanelli (counsel to the Italian Committee). Petrignani is reported to have asserted that "BNL was the victim of a terrible fraud" and that the "reputation of BNL was of great importance as the Italian State is a majority owner." (Memorandum from Daniel Lippman, Office of International Affairs ("OIA"), to Drew Arena and Richard Owens, dated September 21, 1990.)

On October 8, Greenberg prepared a letter to CIA General Counsel W. George Jameson ("Jameson"), requesting that the CIA search for information regarding the CIA's relationships with certain individuals and entities and whether BNL funds were used directly or indirectly for the purchase of implements of war or dual use items that could be used in the manufacture of implements

of war. (Letter from Greenberg to Jameson, dated October 8, 1990.)

In addition, the controversy between USAO and DOJ about the USAO's prosecution theory intensified. In early October, representatives of DOJ and the USAO investigative team, including Mueller, Richard, Urgenson, Greenberg, Clark, McKenzie and Paul B. Maloney ("Maloney"), held a meeting to discuss, among other things, whether BNL had benefitted from the lending transactions to Iraq, a point which was fundamental to the USAO prosecution theory. (Handwritten notes of October 2, 1990 meeting.)

In fact, it appears that early on the "off-book" and "skipped" loans were quite profitable.⁵⁸ For example, in 1988, the Chicago and Los Angeles agencies of BNL earned approximately \$250,000 and \$600,000, respectively, while Atlanta netted \$3 million. (Ex. 16 at 54.) Thus, if the loans had been paid on schedule, "the scheme could have drastically raised BNL's profitability." (Memorandum from Clark to Urgenson, dated December 1, 1990.) This could have provided a feasible theory to charge BNL's officers as well as the bank itself.

The USAO also sent a new draft Indictment to DOJ in October. This extensive draft charged the five BNL-Atlanta employees; Tezeller and Entrade; Taha, Rasheed, Ali and Al-Habobi; and CBI and Rafidain Bank. The cover letter conveyed the USAO's expectation of including two additional Iraqi individuals in the

⁵⁸ Italy imposes capital limits and credit standards on banks, which limit the number, type and length of loans that a bank can lawfully make. (January 1990 Pros. Memorandum at 63.)

forthcoming Prosecution Memorandum, neither of whom was ever added.⁵⁹

Thereafter, Clark and Taylor went to Atlanta and reviewed documents. Clearly, a principal concern of both offices at this point was putting to rest any remaining doubts about BNL's status as a victim of the fraud. The care with which these tasks were designed and performed is evident in the lengthy October Prosecution Memorandum I have reviewed. It carefully established the point that to hold the corporation criminally liable for illegal acts of its employees, there must be an intent to benefit the corporation. The Memorandum also analyzed the sovereign immunity issues involved, because it was recognized that the two banks it was proposed to indict, CBI and Rafidain Bank, would likely be considered agencies of Iraq.

With both DOJ and the USAO determined to put to rest the question whether BNL-Rome had been defrauded, Clark reviewed the October Prosecution Memorandum to focus on those features that, in his view, undermined the theory. Clark listed the following factors:

(1) BNL-Rome was on actual notice of repeated violations by BNL-Atlanta, but did not follow through as would be expected; (2) BNL Corporate should have detected the violations in other ways, particularly from the very active money desk; (3) the sources, extent, enforcement and terms of BNL's prohibition on

⁵⁹ The letter also noted that they expected to obtain the cooperation of Gordon Cooper, Vice President and Chief Executive Officer of MCC, in providing evidence against the Iraqis. The prosecutors obtained formal use immunity for Cooper, in exchange for his complete cooperation.

various acts engaged in by BNL-Atlanta was not given; (4) it would have been highly unlikely for BNL-Atlanta to control all three areas of lending, funding (money desk) and internal audit; and (5) the scheme could have drastically raised BNL's profitability if the loans themselves were repaid on schedule or BNL may have been able to build its book of earning loans without holding the required capital required by Italian law.

(Memorandum from Clark to Files, dated November 1990.)

In part, his comments appeared to stem from his examination of certain Federal Reserve documents, in which he discovered information and leads that were new to him, and which raised still further questions about the knowledge and involvement of BNL management outside Atlanta.⁶⁰ His review of the documents also led him to conclude that there were still significant leads that needed to be pursued, specifically regarding the internal auditors and their reports,⁶¹ Guadagnini's relation to Drogoul, and Guadagnini's position at Entrade.⁶² In effect, as Clark pored

⁶⁰ He was particularly troubled because he believed that USAO had not given him all of the pertinent documents.

⁶¹ One of the documents Clark read memorialized the Federal Reserve's review of the auditors' workpapers for the 1988 and 1989 BNL-Atlanta audits. These materials revealed that the BNL auditors had uncovered a "serious lack of controls and segregation of duties and evidence of substantial mismanagement. (Memorandum from Clark to Urgenson, dated November 13, 1990, citing Memorandum from Kennedy to Kelley, dated October 16, 1989.) Clark apparently was surprised because he thought that the Task Force had reviewed all of the internal and outside auditors' reports and found them satisfactory, as the USAO had indicated in its April Prosecution Memorandum.

⁶² Clark also learned from the Federal Reserve documents that Maggi, one of the BNL-Atlanta informants, had stated that Drogoul had attributed the practice of taking loans off of the books to
(continued...)

through the Federal Reserve documents, it is possible that he was discovering what Drogoul had referred to, in his statement to his lawyers later made available to USAO, as "telltale signs" that were all over the branch and in its records.⁶³ (Ex. 16 at 55.)

Upon reviewing this new information, Clark also began to doubt whether BNL-Rome officials had cooperated fully with the Task Force, as McKenzie had insisted.⁶⁴ He noted that New York Federal Reserve Examiner Walter Zunic had asserted that early on, BNL refused to permit McKenzie to interview Monaco, Alvisa and Florio. (Memorandum from Clark to Urgenson, dated November 13, 1990.) In fact, two of the interviews actually took place, but Clark's point was valid: it appeared to him that BNL-Rome selectively offered cooperation.

In the meantime, the officers at BNL-Rome continued to assert their ignorance of the scheme. In the presence of McKenzie,

⁶²(...continued)

Guadagnini. With the information I have available today, it appears to me that Maggi misinterpreted a comment made by Guadagnini to Drogoul. I can appreciate that at the time, Clark might have found this information startling. Clark also learned that after Guadagnini's retirement from BNL, Guadagnini became a Director at Entrade. (Memorandum from Clark to Urgenson and Greenberg, dated November 13, 1990; Ex. 14 at 49-50.)

⁶³ For example, Maggi had stated that the "grey book" letters of credit were coded with a "2" prefix, which Clark believed raised the question of "why BNL's auditors -- or the examiners -- did not detect such an obvious signal to BNL auditors." (Memorandum from Clark to Urgenson and Greenberg, dated November 13, 1990; Ex. 16 at 55.)

⁶⁴ Urgenson previously had commented that "BNL's presentations to American and Italian investigators have been marked by 'manipulation and self-protection' on the part of BNL, and their conduct was 'not as good as they think.'" (Memorandum from Urgenson to file, dated May 2, 1990.)

BNL's attorneys interviewed Pedde by telephone at his home in Italy. Pedde not only denied knowledge of the scheme but asserted "that there was absolutely no truth to the unsubstantiated rumor that the BNL-Atlanta scheme was set up by BNL-Rome to fund the Italian Socialist Party."⁶⁵ (Memorandum of November 20, 1990 Pedde Interview.)

In spite of the repeated assurances by BNL officials, Urgenson was "not yet convinced . . . that BNL was an unwitting victim, and that there was no involvement, authorization or condonation of the illicit activity by BNL personnel outside the Atlanta Agency" (Memorandum from Urgenson to Maloney, dated November 29, 1990; see also Memorandum from Urgenson to Mueller, dated November 30, 1990.) Before approving Atlanta's prosecution theory, Urgenson wished to be completely assured that each investigative lead pointing to an involvement of BNL management outside Atlanta had been pursued, and that the USAO prosecutive theory would stick.

Urgenson noted that part of the difficulty they were experiencing in this regard was "the virtual absence of any hard probing of BNL New York or Rome personnel" (Memorandum from

⁶⁵ The U.S. Treasury attache in Rome previously had suggested that the profits from the BNL-Atlanta agency's extensions of credit had been "earmarked for the Italian Socialist Party in accordance with an apparently 'institutionalized' practice of illicit political financing derived from the division of stewardship of the various publicly-owned [Italian] institutions between various political parties." (Memorandum from Clark to Urgenson and Greenberg, dated November 13, 1990, citing New York Federal Reserve Memorandum from Dacey to Spindler, dated October 16, 1989.)

Urgenson to Maloney, dated November 29, 1990.) He decided, therefore, to send Clark and Taylor to Atlanta to continue to review documents and investigate still further the evidence upon which USAO rested its theory. Clark and Taylor acknowledged that their trip to Atlanta, and corresponding analysis of the investigation, came "at a time when it is uncertain whether a state of war will soon exist with Iraq, [which] will without question subject the Department to the highest degree of scrutiny by the national and international media and by the Congress. The Department's decision making process will be as open for comment as our conduct before and during trial." (Memorandum from Clark and Taylor to Urgenson, dated December 1, 1990.)

N. The Final Stage: January and February 1991

On January 3, 1991, members of an Italian investigative delegation travelled to Atlanta and met with Lippman, McKenzie, Wade and Clark, among others.⁶⁶ (Memorandum from Lippman to Arena, dated January 7, 1991.) Professor Enrico Zanelli, a member of the delegation, asserted that while the Italian Committee had no evidence that anyone at BNL was involved in the unauthorized loans, BNL officials in Rome and New York may have been negligent.

⁶⁶ This meeting had been planned in mid-October, when Urgenson received word that McKenzie wished to meet with Dr. Montaldi, of the Tribunal of Rome. McKenzie is reported to have been anxious to assist Montaldi, but noted that the case had proven far more complex and in some respects considerably different than it had originally appeared. (Undated Letter from Worlow to Al Dott Raffaele Palmieri, "Direttore, Ufficio II A.P., Ministero di Grazia e Giustizia".) According to Worlow, McKenzie believed that Dr. Montaldi's request to meet was "based on certain understandings about what transpired in Atlanta that have now proven to be incorrect" (Id.)

(Memorandum from Lippman to Arena, dated January 7, 1991.) Carta expressed skepticism that only BNL-Atlanta was involved in the scheme. (Id.) It does not appear that the Italians' opinions, however, influenced McKenzie's adherence to the "Rome as victim" theory of an Indictment.

A week later, on January 11, 1991, Brill, McKenzie, Rukstels, Alexander and Wade held a meeting with Urgenson, Clark and Taylor, at which the USAO again sought to persuade DOJ that BNL-Rome should be treated as an unwitting victim. The USAO reiterated its position that the fraud theory rested upon the clandestine nature of the transactions, the personal gains to Von Wedel and Drogoul, and the likely effect of harm to BNL-Rome. (Memorandum of Outline of Fraud Section meeting, dated January 11, 1991.) The USAO prosecutors believed that proceeding with this theory would permit them to pursue the prosecution of other critical entities such as the Iraqis, Entrade and Dajani. (Id.) In addition, they indicated that the theory made sense in the context of the government's "national security concerns"⁶⁷ and the concerns of the public and Congress that an Indictment in the case was long overdue. (Id.)

Clark was not convinced. Once again, he directed his comments to the adequacy of the proof. He observed that the facts "provide a less than adequate basis upon which to prove the

⁶⁷ By early January, President Bush had successfully built a coalition against Iraq that included both Italy and Jordan, and the U.S. threatened to invade Iraq if it did not retreat from Kuwait by January 15, 1991.

requisite intent on the part of the Iraqis and the lower-level BNL personnel and put into question whether the evidence against Drogoul is sufficient to show that, with the exception of the Entrade transaction, he intended to defraud his employer." (Memorandum from Clark to Urgenson, dated January 11, 1991.)

Three days later, Mueller assigned Clark to rewrite the Prosecution Memorandum and the draft Indictment. On January 25, Clark travelled to Atlanta to help the prosecutors investigate the extent of knowledge held by BNL officials outside of Atlanta and to put major BNL witnesses before the Grand Jury.⁴⁸ Clark sat in the Grand Jury room and then a week later, reported to Urgenson that USAO had achieved the "primary objective" of locking in Drogoul's superiors' testimony that they had not authorized Drogoul's transactions with Iraq. (Memorandum from Clark to Urgenson, dated January 31, 1991.) Clark also said that the adequacy of BNL's management and auditing controls had been explained sufficiently to preclude criminal liability of BNL-Rome. (Memorandum from Clark to Urgenson, dated January 31, 1991.)

The following day, however, Clark's doubts were rekindled when he learned of an article that had been published on February

⁴⁸ McKenzie had requested of BNL's counsel that the following former BNL officers voluntarily testify before the Grand Jury: Pedde, Nesi, D'Addosio, DiVito, Constantini, Bonamici, Florio, Monaco, Lombardi, Messere and a member of BNL's Board of Directors and Executive Committee. (Letter from McKenzie to Walter Driver, Jr. and Kirwan, dated January 20, 1991.)

20, 1988 in Middle East Economic Digest ("NEED").⁶⁹ The article indicated that BNL-Atlanta had charged the Iraqis a very generous rate for financing import transactions -- just 1/16 percent above LIBOR -- and that BNL had been left highly exposed to Iraqi risk. Moreover, it asserted that BNL had agreed to continue to provide financing to Iraq.⁷⁰ Clark wondered whether the article, then almost three years old, should have alerted individuals at BNL to the Atlanta scheme. He noted that "no systematic effort has been made to determine who at BNL-Rome was aware of the article."⁷¹ (Memorandum from Clark to Files, dated February 1, 1991.)

On January 28, Urgenson sent to Mueller an extensive Prosecution Memorandum presenting the Fraud Section's analysis of the USAO's draft Indictment. The Fraud Section redrafted the Indictment to shorten and reorganize it, but proposed the same list of defendants as the USAO had proposed: the five BNL-Atlanta employees, Entrade and Tezeller, the Central Bank of Iraq and Rafidain Bank, and four Iraqi individuals, including Al-Habobi, the Chief Executive Officer of both MCC and Matrix Churchill, Ltd. The

⁶⁹ It is of interest that the first of the Iraqi/BNL-Atlanta MTL Agreements was executed on February 22, 1988.

⁷⁰ Notably, the NEED article discussed BNL financing only in the context of CCC guarantees, and not in the context of the MTLs or other loans.

⁷¹ A few days later, Clark asked DiVito whether he had known or heard about the article from employees at other banks. DiVito denied knowing anything about the NEED article, noting that early in 1988, BNL was in the midst of "great retrenchment" which may have resulted in BNL's "cutting itself off from routine exchanges with officers at other banks." (Memorandum from Clark to Files, dated February 5, 1991.)

Indictment as reworked by the Fraud Section represented a considerable organizational improvement, but I find nothing to suggest that the Fraud Section's redraft was intended to exert any influence on the USAO's judgments about who should be named.

The January 1991 Prosecution Memorandum reflected continued consideration of MCC and MCL. It also questioned, as had the USAO, the ability to obtain jurisdiction over the two Iraqi banks, but concluded, as had the USAO, that there was no insurmountable "sovereign immunity" hurdle to pursuing their Indictment. (January Pros. Memorandum at 55). The Prosecution Memorandum also considered the basis on which defendants might rest a defense that the conduct was authorized.⁷² (January Pros. Memorandum at 59ff.) Obviously, however, the prospect of this defense was no longer an obstacle to indictment based on the USAO prosecution theory, because the DOJ, having heard the Italian witnesses before the Grand Jury, at last was prepared to endorse an Indictment that did not include BNL.

I. The Final Indictment

The days immediately prior to the return of the final Indictment saw a fluid list of defendants. At one point, according to McKenzie, Clark proposed preparation of a draft "global" Indictment that included everyone the USAO had considered, even

⁷² The defense could be based on: (1) BNL-Rome's failure to stop the scheme upon early indications of "off-book" loans and borrowings; (2) the Geneva Agreement between BNL-Rome and Iraq (supporting a claim of prior authorization); and (3) BNL's failure to follow up on the unsecured loans Guadagnini had detected.

those against whom there was insufficient evidence to indict. The list grew to include Wafai Dajani and the MIMP, but they were removed as defendants a few days later at a February 13 meeting of McKenzie, Alexander, Brill, Clark, Urgenson and Mueller.⁷³ At the February 13 meeting, the possibility of dropping the Central Bank of Iraq was discussed but not decided. (Memorandum from Brill to File, dated February 14, 1991.) It is important to remember that by now, the United States was at war with Iraq. Brill noted that the State Department did not want CBI indicted, while the USAO still did.

Mueller subsequently asked the Departments of Treasury, Defense and State, Eximbank, and the Federal Reserve for their views on indicting CBI and Rafidain Bank. They responded with a joint memorandum supporting Indictment of Rafidain, but opposing the Indictment of CBI.⁷⁴ As explained in their memorandum:

-- The indictment would set a precedent for the assertion by foreign states of criminal liability on the part of the USG and its agencies. We would vigorously assert sovereign immunity in such a setting, and would not agree that we should submit to the jurisdiction of a foreign criminal court in order for that court to determine whether the

⁷³ Fiebelkorn and New were dropped because they had negotiated plea agreements in exchange for their cooperation with the government's investigation and prosecution. New pleaded guilty on March 6, 1991; Fiebelkorn on April 3, 1991.

⁷⁴ Throughout the investigation, the prosecutors had treated CBI and Rafidain Bank in a virtually identical manner. Since both are wholly-owned by Iraq, they were both considered to be "agencies of a foreign government," and thus "sovereign" for purposes of international law. (October 1990 Pros. Memorandum at 118.)

US agency's actions were "commercial". We do not want to encourage foreign states to address complaints regarding allegedly criminal action by US agencies through their courts rather than diplomatic channels. We would not be able to confine the precedent to the facts of a particular case -- in fact, the links between the USG and the Federal Reserve System, the Export-Import Bank, and several other entities for which we would assert sovereign immunity from foreign criminal jurisdiction might be viewed by a foreign court as weaker than the link between most central banks and their states.

-- Forfeiture of a central bank's assets could similarly be cited as a precedent by foreign states to justify an attempt to attach or seek forfeiture of the substantial assets of various USG agencies, including the Federal Reserve System and the Department of Defense, located outside the U.S.

(Memorandum from Jeanne Archibald, General Counsel, Treasury Department; Hart Fessenden, General Counsel, Export-Import Bank; J. Virgil Mattingly ("Mattingly"), General Counsel, Federal Reserve System; Terrence O'Donnell, General Counsel and Director, Department of Defense; and Edwin D. Williamson, Legal Adviser, Department of State, to Mueller, dated February 25, 1991.)

The prospect that Indictment of CBI could invite retaliation against the Federal Reserve, particularly in light of the onset of the Persian Gulf War, was regarded as an appropriate basis on which to drop CBI. Although the USAO continued to believe that CBI should be indicted because its conviction would permit forfeiture of substantial assets, it was precisely this possibility that supported the position of the other Executive Branch departments and agencies that CBI should not be indicted. This was

the only decision made by the DOJ as to who should be included in the Indictment.

J. Omissions From The Indictment

On February 28, 1991, a 347-count Indictment was returned against the following defendants: Drogoul, Barden, DeCarolis, Entrade, Tezeller, Taha, Rasheed, Ali, Al-Habobi and Rafidain Bank. The Indictment included counts of conspiracy, mail fraud, false statements, obstruction of Congressional proceedings, money laundering, tax evasion, crimes relating to the USDA, Trading with the Enemy Act crimes relating to Cuban sugar, tax evasion and counts seeking criminal forfeiture. The final Indictment bore no resemblance whatsoever to the initial drafts produced in October 1989 and January 1990. It was substantially organized and more comprehensive and included Iraqi defendants as well as Rafidain Bank. It was the product of extended give and take, and some heated exchanges, between the USAO and the DOJ as these career prosecutors sought to return the strongest Indictment possible.

Some have criticized the prosecution for failing to indict Wafai Dajani, a Jordanian businessman who was affiliated with a company called Amman Resources. Specifically, allegations have been made that the State Department interfered with the prosecution because of Dajani's alleged "close ties" to Jordan's King Hussein, who had sided with Iraq during the Gulf War.⁷⁵

⁷⁵ It is clear that McKenzie was aware of Dajani's rumored "connections" midway into the investigation, as she noted in the April 1990 Prosecution Memorandum that "Drogoul often referred to Dajani as being very powerful because he was 'the brother of the Prince of Jordan.'"

Dajani's company kept a ship in the Jordanian port of Aqaba to off-load grain from ocean-going vessels and package it for transportation to Iraq. Dajani and Drogoul first met in 1985 or 1986, when they were introduced by the Director General of the Iraqi Grain Board as Iraq was negotiating the terms and conditions for financing certain freight under the USDA CCC Program. (Ex. 16 at 7). Drogoul and Dajani began to establish what would become "an ongoing relationship." (Ex. 16 at 10). In early February, Clark and the USAO decided to draft a "global" Indictment naming almost everyone they previously had considered, to see how it would work. In that draft the USAO included Dajani, although the USAO did not seriously plan to indict him, at least not in the first phase of the prosecution. Accordingly, his name was removed at a meeting a few days later.

The prosecutors deny all allegations of State Department interference, and assert that their decision not to indict Dajani was solely their own. USAO and DOJ agree that at the time, they had insufficient evidence to indict him on a "BNL as victim" theory. (See October 1990 Pros. Memorandum; January 1991 Pros. Memorandum.) They recognized that "it was very clear that Dajani had worked assiduously and profited enormously as a middleman between Drogoul and the Iraqis," but without cooperation from Drogoul to implicate him, lacked proof of his complicity in a fraud against BNL. Their evidence was piecemeal and of questionable

admissibility.⁷⁶ The USAO sought to interview Dajani, but Dajani evaded these efforts.

Until August 1992, Drogoul refused to implicate Dajani, firmly maintaining that Dajani had no knowledge of the illegal transactions. We now also know, as the USAO and DOJ could not have known in February 1991, that Dajani had offered Drogoul a consulting position through which Drogoul was paid \$100,000 in 1990-91. In any event, Dajani is an unindicted co-conspirator in the action.

As I noted above, the USAO prosecutors also had considered indicting Al-Habobi, the Chief Executive Officer of MCC and MCL, as well as MCC and MCL themselves. In early February 1991, McKenzie decided that the proposed Indictment of Al-Habobi was more significant than charging either MCC or MCL, because

- (1) MCC's assets had been frozen by the Office of Foreign Asset Control;
- (2) MCL had been almost completely divested of its Iraqi interests by a British agency; and
- (3) the new owners of MCL were non-Iraqi.

The USAO attorneys concluded that there was no reason or law enforcement objective to be obtained by proceeding against either MCC or MCL because no additional Iraqi assets could be obtained by indicting either entity. This represents a significant departure from USAO's April, 1990 prosecution theory which envisioned including examination of MCC in the investigation's second phase. Both the freezing of MCC's assets and the divesture

⁷⁶ A handful of telexes purported to demonstrate Dajani's posture as a go-between, but the USAO had developed no means of proving that Dajani sent or received them.

of MCL occurred after the April 1990 Prosecution Memorandum was written.

In addition to the criticism lodged against the USAO for failing to indict MCC, it also has been alleged that the prosecution destroyed evidence relevant to MCC.⁷⁷ I have found no credible evidence of prosecutorial wrongdoing in the form of either the destruction of evidence or in the decision not to include MCC as a defendant in the Indictment. Moreover, since investigations of the activities of MCC and MCL are still in progress, the possibility of future Indictments cannot be excluded. (Memorandum from McKenzie to Brill, dated February 6, 1992.)

K. Analysis Of The Indictment

Of great significance is that the Indictment resulted from a careful analysis of the available evidence and sworn testimony of numerous witnesses before the Grand Jury. The possible role of BNL officers and entities above Drogoul's level was amply investigated as the Grand Jury heard from present and former BNL officers and employees from New York, Rome, and elsewhere, who appeared without grants of immunity.

Although one or more memoranda indicate that as early as the Spring of 1990, McKenzie was anticipating the return of an Indictment, a lapse of 18 months between detection of the scheme and the Indictment's return reflects postponement based upon sound

⁷⁷ There also has been some public confusion about the possibility that USAO was using evidence illegally seized from MCC in Cleveland. In fact, USAO had issued a subpoena for the same documents and obtained them legally, but with some delay.

professional analysis, a major factor in which was the DOJ's skepticism about the USAO's treatment of BNL-Rome. This skepticism endured up until the time that the various BNL officials went -- one by one -- before the Grand Jury.

Ironically, it has been suggested in certain of the media that it was the DOJ, perhaps influenced by others in the Executive Branch, that first favored casting BNL as victim, perhaps for foreign policy or diplomatic reasons, and that it forced its view upon the USAO. I have found absolutely no support for these reports. Indeed, the evidence is wholly to the contrary.

L. Should BNL Have Been Indicted?

At the outset of this discussion, I must confess to a preconception I held; that is, that a scheme so involved, and so massive in both amounts and number of transactions and persons and institutions involved, could not have escaped the attention of BNL's regional or Rome management and that, given the length of time it lasted (almost four years), the scheme had to have the express or implied authorization, or tacit acceptance, of Drogoul's superiors in New York and Rome.⁷⁸ Others, of course, have manifested the same belief, reflected, for example, in comments by many that Drogoul and his fellow players at BNL-Atlanta could not have carried out the scheme by themselves.

1. The USAO's Analysis

Documents reflect that, within a few months of the

⁷⁸ Indeed, some members of USAO's Task Force originally felt as I did. (See Ex. 9 at 6.)

search, the USAO believed that it could frame a prosecution theory that BNL was a victim of the fraud committed by Drogoul and others within BNL-Atlanta and by non-BNL entities, and that it was most unlikely that BNL officials in New York or Rome had known of or authorized Drogoul's activities. (See Memorandum from McKenzie to R. Barr, dated October 31, 1989.) The USAO never discarded this perception of BNL's role. In fairness to that office, it must be said that in the many interrogations it conducted, not only of Drogoul, but of others, it always inquired into whether BNL in New York, Rome or elsewhere, knew of Atlanta's "off-book" and other concealed activities.⁷⁹

In light of the publicity given the issue, I had the USAO submit to me in writing the reasons for its decision not to indict BNL and to treat it as a victim. Its response is included within its Analysis, (see Ex. 14 at 34-72). I have carefully reviewed that response. It is consistent with everything I have read in my review of the files of the DOJ and other government agencies, and with what I have learned in the numerous depositions and interviews I have conducted.

Supporting the contentions of the USAO are the many statements made by Drogoul prior to his taking the stand at his sentencing hearing, after having retained new counsel for the fourth time. In his earliest interviews with the USAO, Drogoul repeatedly asserted that neither the New York office of BNL nor the

⁷⁹ As I have described in detail above, I can state without reservation that it was the USAO and not the DOJ that first arrived at the "BNL is a victim" theory of the case.

Rome office authorized his "off-book" loan activities with Iraq, and he made clear that he was responsible for the concealing of these loans from his superiors, internal and external auditors and regulators. (Memorandum of August 10, 1989 Drogoul Interview; Memorandum of August 28, 1989 Drogoul Interview.)

In hundreds of pages of debriefing following his June 1992 plea agreement, and in handwritten and typewritten statements made available to the USAO at that time, including his typed statement (Ex. 16), Drogoul never once pointed to an official at BNL-Rome and charged that anyone had knowledge or had authorized the wrongful activities in Atlanta, not even when his second counsel, Williams & Connolly, advised him not to withhold such information because it could be helpful to his defense. Indeed, not until his sentencing hearing, after he retained new counsel, did the story change.

Some excerpts of Drogoul's statements follow:

Drogoul made it quite clear that he had been responsible for the hiding of these loans from the main office and from the regulators." (Memorandum of August 10, 1989 Drogoul Interview.)

He indicated that the New York Office of BNL was not aware of his activities, nor was the home office of BNL in Rome aware of his activities. Further, he indicated that before August 4, 1989, the Central Bank of Iraq had no knowledge that he was exceeding his authority, but should have known that he was exceeding his authority after this. (Memorandum of August 10-11, 1989 Drogoul Interview.)

At no time did Drogoul ever name anyone other than his officers and employees at BNL-Atlanta who assisted, participated or actually knew of

his 'off book' and otherwise allegedly unauthorized activity. Throughout his representation by Williams and Connolly, Drogoul always maintained that no one anywhere authorized, directed, protected or encouraged his 'off book' activity. (Memorandum of July 29, 1992 Drogoul Interview.)

According to the Atlanta firm, Drogoul never provided them with the name or names of any person or persons outside BNL-Atlanta who authorized, assisted, participated, directed, protected, encouraged or actually knew about his activity at BNL-Atlanta then under criminal investigation. Both law firms urged Drogoul not to hold back such information if it existed. (Memorandum of July 29, 1992 Drogoul Interview.)

I think I can say straightforward that I did not have formal approval from the Bank in Rome. . . . (June 2, 1992 Plea Transcript, testimony of Drogoul, attached hereto as Ex. 21 at 60.)

First of all, I don't want to give you the impression that I spoke to a person in Rome and said, 'This is what I am doing, A, B, C, D, E, F, G. Do you approve?' That never happened. There were discussions, many discussions with people, various people at different levels in Rome about my activities in general, but nothing in particular. (Ex. 21 at 64.)

The Court: Was anybody at the home office of BNL aware of your off-book set-up?

Mr. Drogoul: I would have to say they were aware -- not specifically, no, your Honor, but I would say they were aware we were doing business in excess of the authorized limits. (Ex. 21 at 85.)

Drogoul never told anyone outside BNL-Atlanta the nature and extent of his 'off book,' unauthorized funding. (Memorandum of June 19, 1992 Drogoul Interview.)

Drogoul advised he did not tell anyone with BNL-Rome about the 'off book' transactions or about the other unauthorized loans.

(Memorandum of June 23, 1992 Drogoul Interview.)

Drogoul said DeCarolus never told Rome about the 'off book' transactions and the overline situation. . . . Drogoul stated Decarolis never told Rome about the overline 'off book' amounts with Iraqi transactions and, in fact, repeatedly mislead Rome regarding BNL-Atlanta's unauthorized Iraqi exposure. (Memorandum of June 29, 1992 Drogoul Interview.)

Drogoul advised he never talked to the BNL rep about the 'off-book' operation at BNL-Atlanta because it was out of the question. (Memorandum of July 6, 1992 Drogoul Interview.)

Drogoul advised he did not tell anyone in the BNL organization about the off-book operation, slush funds, concealed falsely booked transactions, CCC umbrella agreements, nor MTLs. Drogoul advised he did mislead and lie about the existence of the off-book operations, slush funds, concealed falsely booked transactions, losses, CCC umbrella agreements and MTLs to Monaco, Guadagnini, Sardelli, Messere and his staff, Russello, Campagnuolo, BNL-London, BNL-Los Angeles, Laverone and Lombardi concerning the audit report reply. (Memorandum of July 6, 1992 Drogoul Interview.)

Drogoul advised many individuals in BNL knew a little something about Atlanta's business operations, however, they did not sit down as a group and put all of the pieces together to make any sense out of it or learn what Atlanta was doing. He does not believe anyone would have figured out that BNL-Atlanta had an 'off book' graybook operation (Memorandum of July 9, 1992 Drogoul Interview.)

Drogoul advised that although the press and media say that officials in BNL-Rome had to have known about his grey book or 'off book' operation, he had no conversation with any BNL official about the grey book. He stated that he never told anyone in the press or media that a BNL-Rome official was told about the grey book. Only personnel on his staff were

told about the gray book and there was no reason to discuss it with anyone such as customers, because it would botch things up and get them caught. (Memorandum of July 13, 1992 Drogoul Interview.)

He stated that the reason most people did not understand how \$4.5 billion could be concealed was because no one ever saw the entire concealment. When he received questions about a particular overline or 'off book' situation he would offer a reasonable explanation. (Memorandum of July 13, 1992 Drogoul Interview.)

However Drogoul did not know what, if anything, anyone in top management knew about their 'off book' operation." (Memorandum of August 18, 1992 Drogoul Interview.)

In addition, BNL-Rome would hardly have authorized Drogoul at BNL-Atlanta to lend money to the Iraqis so that the Iraqis could use it to cash-collateralize letters of credit at BNL-Rome, which was done on more than one occasion. (Ex. 13 at 24-25.) Drogoul would borrow from the money brokers and pay interest to them on the funds he was lending to the Iraqis. These funds would then go through the Morgan Guaranty clearing account of BNL-Atlanta to Iraqi accounts in one of four banks in New York. From there it would be wired overseas and further disbursed until it finally came together as cash collateral that the Iraqis would post with BNL-Rome. BNL-Rome, of course, had to pay the Iraqis interest on this deposit -- i.e., interest on its own funds. Surely BNL-Rome would not have authorized this.⁸⁰

⁸⁰ Nor can it be said that BNL-Rome would have authorized the Entrade transactions, where bribes in excess of \$2 million were paid for Drogoul's benefit, including \$290,000 paid to Von Wedel. Drogoul, at his sentencing hearing, admitted only a portion of
(continued...)

Further support for the USAO prosecution theory is found in Drogoul's statements that prior to extending new loans, he sought to have the early Iraqi loans repaid. It appears that Drogoul tried -- unsuccessfully -- to extricate himself from mounting Iraqi pressure to lend even larger sums of money. He indicated that he was reluctant to sign the third MTL and told Taha and Ali that he "had already done a lot. Taha said he understood (being a banker), but Ali kept pushing hard." (Minutes of Meeting at BNL-Atlanta, dated August 21, 1989.) Drogoul feared, however, that if he ceased lending money, the Iraqis would halt payments on the money they already had borrowed. Had Rome known about or authorized the loans, Drogoul would have been less fearful of the consequences of Iraqi nonpayment.

Moreover, the sheer magnitude of the fraud is consistent with the USAO's theory that Drogoul lacked authority for the loans. The sums were so enormous (and the terms to BNL-Atlanta so unfavorable) that it is doubtful that any prudent bank would have willingly and deliberately exposed itself to so much risk.⁸⁰ There also was evidence that BNL-Rome lacked the capability to monitor its worldwide borrowing position, which suggests that the loans could have escaped Rome's attention. (Memorandum from

⁸⁰(...continued)

this. When he was debriefed in August 1989 Drogoul did not disclose he had been bribed at all. He did point the finger at Von Wedel, however. (See g.g. Ex. 19.)

⁸¹ Although the CCC loans were guaranteed, between February 22, 1988 and April 1989, Drogoul committed BNL to uncollateralized loans to the Iraqis in excess of \$2 billion.

Federal Reserve Examiner Madeline Marsden ("Marsden") to Kelley, dated September 25, 1989.)

Drogoul also engaged in undeniable acts of concealment.⁸² Drogoul, recognizing that he had to give some explanation for these acts of concealment, testified at his Sentencing Hearing that he did this to deceive Luigi Sardelli ("Sardelli"), who was at one point BNL's Regional Manager in New York. (Testimony of Drogoul, dated September 30, 1992, at 1752-53.) The fact is, however, that acts of concealment, such as the "skipping" of loans, began well before Sardelli came on the scene. They began in 1985, when Renato Guadagnini was the Regional Manager in New York. Sardelli did not become Regional Manager until the early part of 1987, where he remained until approximately the end of 1988. These acts of concealment, and the voluminous number of fictitious telexes, letters and other falsified documents seized during the August 1989 search, demonstrate that Drogoul went to tremendous lengths to hide the true nature of his activities from anyone within BNL who was not affiliated with the Atlanta office and from any auditors or regulatory agencies.

The USAO also had available to it, prior to preparation of the final Indictment, the results of audits and examinations at BNL-Atlanta. As established by the records, and presented at the sentencing hearing in the testimony of Wade as Chart 27 (Ex. 22), there was an audit by Peat Marwick on December 31, 1985, the report

⁸² These are summarized in the USAO Analysis (Ex. 14 at 20-29) and Wade Overview. (Ex. 13, at 10-17, 23-24.)

of which issued on February 21, 1986. In 1986, there were also audits by BNL's internal auditors, the U.S. General Accounting Office, the State of Georgia (along with the Federal Reserve) and again, Peat Marwick. In 1987 there was an examination report by the Federal Reserve on January 26, and additional audits by the BNL internal auditors, Peat Marwick, the State of Georgia, the General Accounting Office, the State of Georgia again (accompanied by the Federal Reserve), and Peat Marwick.

On March 4, 1988, Peat Marwick issued its audit report based upon the examination commenced on December 22, 1987. In 1988, there were also audits by the State of Georgia (accompanied by the Federal Reserve), the General Accounting Office and the BNL internal auditors (whose audit report issued on December 22, 1988).

On February 6, 1989, Peat Marwick began another audit, and issued its report on March 10, 1989. In 1989, the General Accounting Office, the State of Georgia (accompanied by the Federal Reserve), and the BNL internal auditor began audits. The BNL internal audit report issued on July 26, 1989, approximately one week before the August 4 search was conducted, and even while the BNL-Atlanta informants were talking to the USAO.

While some of the BNL internal audit reports showed certain irregularities in BNL-Atlanta's records, none of these audits, or any others, led any of the auditors to suspect the "off-book" activities or other unauthorized activities of BNL-Atlanta.

Certain of the fellow employees of Drogoul, at least up until the Drogoul sentencing hearing, pleaded guilty in this

matter.⁸³ Particularly significant is Von Wedel's testimony on March 7, 1991. There, Von Wedel indicated that the loans were unauthorized by BNL-Rome. At the plea hearing, the Court carefully conducted a Fed.R.Crim.P. 11 examination, and then called upon McKenzie to state what "the government's evidence" would show. (Transcript of Von Wedel, dated March 7, 1991 at 19, attached hereto as Exhibit 23.)

McKenzie presented in great detail what the Government's case would be at trial, were the case to be tried against Von Wedel. She listed the wrongful extensions of credit in which Von Wedel had participated, including the CCC guaranteed credits to finance the purchase of agricultural commodities to be exported to Iraq. The total of those "were not authorized by BNL-Rome" was \$1.89 billion. (Id. at 19.) Von Wedel also signed (with Drogoul) the first two of the unsecured MTL agreements with Iraq, one for \$200 million in February 1988, and another for \$300 million in October 1988. It was at this point, McKenzie noted, that Von Wedel refused to go any further because he found out that Atlanta had "far exceeded its authority from BNL-Rome." (Id. at 20.)

The Court then addressed Von Wedel, first asking him whether the recitation by McKenzie was "substantially correct." Von Wedel responded, "I have no problem with that statement, Your

⁸³ Since the sentencing hearing, Fiebelkorn has indicated that he may want to withdraw his plea, but I have not been advised that he has filed such a motion yet. The others who have pleaded guilty have not indicated that they intend to withdraw their pleas.

Honor." (*Id.* at 23.)

The Court then asked, "Well, did you recognize that unauthorized [CCC] credit agreements were being entered into with the Iraqi government?" (Emphasis supplied.) Von Wedel answered "Yes, Your Honor." (*Id.* at 24.)

The Court then asked whether Von Wedel was a party to the \$200 million and \$300 million MTL loans, and Von Wedel stated that he was. The Court addressed the Entrade transaction, in which Entrade had made substantial payments to Von Wedel. McKenzie broke in and asked, "Did you give them [Entrade] unauthorized funding from BNL-Atlanta"? and Von Wedel answered, "Yes." (*Id.* at 25-26.)

The Court then said, "Didn't you recognize during this period when these types of procedures were taking place, unauthorized credit agreements were being executed, that some day there would be a day of reckoning"? (Emphasis supplied). Again Von Wedel responded, "Yes, Your Honor." (*Id.* at 26.)

The Court again asked, "Did you recognize that these credit agreements with the Iraqi government were unauthorized"? (Emphasis supplied). Von Wedel responded, "Yes, Your Honor, I did." (*Id.* at 27.) The Court repeated, "And did you recognize that these unsecured loans that were being made to Iraq were not authorized"? (Emphasis supplied). Von Wedel answered, "Yes, Your Honor. That is why I, at mid-stream, I stopped doing all activity with Iraq." (*Id.* at 23-27.)

Although some of the testimony I have recited above represents statements made following the return of the Indictment

on February 28, 1992, the vast bulk of the evidence I have reviewed is consistent with the USAO prosecution theory. More particularly, I find that the evidence collected and developed by the USAO and Task Force by February 1991 provided an insufficient basis on which to seek indictment of BNL. Indeed, it was this very issue that was thrashed out in strenuous negotiation between the USAO and DOJ, even though Clark apparently was not persuaded to the USAO's view until he at in the Grand Jury room.

2. Competing Considerations

On the other hand, there are many troubling details in the materials developed both before and after the Indictment that cannot be squared with the prosecution theory. The fact that Drogoul has withdrawn his guilty plea and now contends that BNL knew of his unauthorized activities requires that those details be given a fresh look, even though some of them already have been investigated.⁸⁴

For example, the details of the BNL internal audits of BNL-Atlanta present a series of curious coincidences. According to the Italian Parliamentary Report (Ex. 20), the first internal audit of BNL-Atlanta was conducted in June, 1986, by Vito Cannito ("Cannito"). Cannito's report, which indicated that Iraqi loans sharply exceeded authorized limits, was submitted to Guadagnini eight months after the audit. Apparently it did not surface in Rome until three years later, after August 4, 1989. The Italian

⁸⁴ Although Drogoul had long pointed to winks, glances and knowing smiles from BNL officials, he never provided any specifics and, accordingly, I have discounted those statements.

Parliamentary Report asserts that after Cannito's promotion within BNL, he warned Drogoul of upcoming internal inspections.

Cannito's successor, Louis Messere ("Messere"), conducted an audit of BNL-Atlanta in September, 1988. Messere's 1988 audit report, which issued December 22, 1988, failed to mention BNL-Atlanta's account at Morgan Guaranty Trust Company or any of Atlanta's agreements with Iraq. In December, 1988, by Sardelli, Guadagnini's successor, forwarded a copy of the Messere audit report to Rome, but this too was misplaced or diverted. In addition, Sardelli wrote a letter criticizing Drogoul and sent it to Rome with Constantini ("Constantini"), a travelling inspector for BNL. The letter was never delivered. (January 1991 Pros. Memorandum at 46.)

After Messere's 1988 audit, Sardelli apparently admonished Drogoul about Atlanta's poor bookkeeping and organizational controls. Drogoul evaded Sardelli's questions, noting that BNL-Atlanta was by far the most profitable of the North American branches, and Sardelli apparently dropped his accusations.

It is also possible that the DOJ or the Task Force did not realize from their review of the reconstructed documents that as a result of the "skipping" of loans on the last day of the month, BNL-New York (and Guadagnini) must have been on notice of the irregularities in Atlanta. BNL-New York received computer reports reflecting BNL-Atlanta's loan balances on three different days of the month. The reports on the last day of the month, which were sent to Rome, did not reveal the skipped loans, but the other

reports did disclose the true exposure. BNL-New York may have noticed the discrepancies, because it apparently asked BNL-Atlanta, on different occasions, to explain why Atlanta always "lost" assets at the end of the month. (Ex. 16 at 49, 106, 109.) By 1987, Atlanta was losing approximately \$400 million at the end of each month. (Id.)

Drogoul's revisionist position that certain persons within BNL should have known about the Atlanta scheme is not without support from Drogoul's associates in Atlanta. Ivey apparently claimed that Messere (the BNL auditor) must have known about the scheme, as well as Teodoro Monaco ("Monaco"), who had bumped into Drogoul in Baghdad. (Minutes of October 18, 1989 meeting with Ivey and Luciani Silvestri, Counsel for BNL-Rome.)

Among the many singular transactions in which Drogoul engaged are the Danieli transactions, which are noteworthy because they lend themselves to two conflicting interpretations: on the one hand, that Monaco, a mid-level manager, suspected that some sort of unauthorized activity was taking place; and on the other hand, that BNL paid interest on its own funds, thereby suggesting that officials at Rome would never have authorized Drogoul's activities.⁸⁵

The details of the transactions are complicated (and Monaco and Drogoul often contradict each other in their accounts of

⁸⁵ These interpretations may be reconciled if certain individuals at BNL-Rome had general knowledge about Drogoul's activities, but no specific information regarding the details of the scheme.

what occurred), but they generally may be explained as follows: sometime in 1989, the Danieli firm signed two contracts with the Iraqis for the manufacture of a steel manufacturing facility. Although Danieli was a longstanding client of the Udine branch, Monaco decided to direct the transaction to the Atlanta branch, purportedly because of Atlanta's CCC connections and familiarity with Iraq.⁸⁶ BNL understood that the first contract would consist of an Iraqi cash advance payment for 10 percent of the contract amount, and the remaining 90 percent was to be a letter of credit fully collateralized by a corresponding amount of Iraqi cash on deposit with the bank.⁸⁷ In due time, BNL-Atlanta received from the Central Bank of Iraq two letters of credit totalling \$80 million, a substantial sum by BNL-Atlanta standards.

According to Monaco, Drogoul was told that the letters of credit had to be guaranteed by cash collateral, pursuant to BNL policy. He also instructed Drogoul to prepare a telex in order to formalize the request to the head office. Drogoul did not comply with either of these directives. Monaco attested that although he knew that Drogoul did not file a formal request for authorization, Drogoul led him to believe that BNL-Atlanta had received the cash

⁸⁶ Although Monaco could have selected the London branch of BNL, he did not do so because Iraq recently had deposited funds in London to fully collateralize a few transactions. These deposits apparently were designed to convince Monaco that Iraq wanted to re-establish a relationship with BNL (which is what Drogoul told Monaco when he ran into him in Baghdad).

⁸⁷ The second contract was similar to the first, except that only 5 percent has to be collateralized by the Iraqis and the remaining 85 percent has to be fully guaranteed by the Italian government through SACE.

collateral required for the guarantee and he thus thought the transaction was risk-free. (Ex. 16 at 115.) However, Drogoul stated that Monaco knew that BNL-Atlanta held insufficient cash to issue the letters of credit. Drogoul implied that Monaco wanted the deal to go through because it was so very lucrative and Danieli was an important customer of Pedde.

In these transactions, Drogoul borrowed from the money brokers and paid interest on the money he was lending to the Iraqis. This money would then go through the Morgan Guaranty clearing account of BNL-Atlanta to Iraqi accounts in one of four banks in New York. From there it would go overseas and be further disbursed until finally coming together as the cash collateral that the Iraqis posted with BNL. Thus, BNL paid the Iraqis interest on the deposit, in other words, interest on its own money. It is difficult to fathom why BNL would have voluntarily and deliberately engaged in this scheme.

M. Conclusion

My review of the evidence available to the USAO at the time of the Indictment convinces me that the prosecutors' decision to pursue a prosecution theory in which BNL-Rome was a "victim" was entirely proper. They lacked sufficient evidence on which to base an Indictment of BNL or BNL individuals, and at the time of the Indictment the evidence in support of their theory was overwhelming. Although some have suggested that BNL's early cooperation with the USAO was so seductive that the prosecutors failed to give adequate consideration to other possibilities, my

review convinces me that this was not so.

The negotiations and discussions between the DOJ and the USAO were extensive, and the decisions leading to the Indictment were not committed to lightly. But they were not colored by political or other improper motives. In any event, these types of spirited negotiations should not be captured by criminal provisions, and are not captured by those I have considered (~~see~~ Section X, *infra*.) "within the jurisdiction of any department or agency of the United States." Even if they were applicable, the evidence I reviewed is clear and convincing that no one acted with corrupt or improper motive.

VI. THE FOREIGN POLICY OF THE UNITED STATES - DID IT AFFECT THE GOVERNMENT'S INVESTIGATION AND PROSECUTION OF THE BNL MATTER?

It is important to understand that the criticism by Representative Henry B. Gonzalez, Chairman, Committee on Banking, Finance and Urban Affairs of the House of Representatives ("Gonzalez Committee") of the investigation and prosecution of the BNL matter derives from criticism of the Reagan and Bush Administrations' foreign policy toward Iraq during the 1980s. The structure of Representative Gonzalez' reasoning is this: that BNL-Atlanta financing of Iraq and certain of its institutions advanced U.S. foreign policy goals; that U.S. foreign policy failed because the U.S. was exploited by Iraq to strengthen the Iraqi military potential but failed to influence Iraq's behavior in favor of the U.S.; and that, to avoid public exposure of the failure of that policy, and to refrain from embarrassing the Government of Italy,

which owns BNL, the Bush Administration engaged in a "coverup" that was implemented by corrupting the DOJ and USAO in their prosecution of BNL in Atlanta.

A. The United States' Foreign Policy Toward Iraq

In 1979, in the face of evidence that Iraq was providing aid to Abu Nidal and other terrorist organizations, the Carter Administration added Iraq to the list of nations supporting terrorism. Under the then prevailing export controls, this designation prohibited Iraq from purchasing many U.S. goods, including civilian aircraft and military equipment. (137 CONG. REC. H846-847 (daily ed. February 4, 1991) (statement of Rep. Gonzalez).)

The Iranian revolution, the hostage crisis, and the inception of the Iran-Iraq war in 1980, however, drastically changed the Middle East political landscape as perceived by this Nation. In 1981, President Reagan's Administration reevaluated our foreign policy toward Iraq as it considered strategies available for countering Iran's power and halting the spread of Islamic fundamentalism. Gradually, we adopted a policy of aiding Iraq.

In February 1983, the Reagan Administration removed Iraq from the list of countries supporting terrorism, thereby lifting the export restrictions established four years earlier. Iraq was offered economic and political incentives, including export credit guarantees supplied by the USDA CCC program and loans through the Eximbank. In January 1984, a State Department memorandum recommended easing restrictions on certain "less sensitive exports"

to Iraq, such as heavy trucks, which "probably [have] a negligible effect on Iraq's military capabilities." This recommendation was approved. (Memorandum from David T. Schneider (NEA) and Jonathan Howe (NSC) to the Secretary of State, dated January 30, 1984.) In that same year, 1984, the U.S. extended full diplomatic recognition to Iraq after a lapse of 17 years. (137 CONG. REC. H846-847 (daily ed. February 4, 1991) (statement of Rep. Gonzalez).)

This policy shift in favor of Iraq was controversial, given Iraq's poor human rights record and its aggressive program to expand its military capabilities. It has been reported that between 1983 and 1985, Iraq began a missiles program, used chemical weapons against both military and civilian populations, and entered into a nuclear cooperation agreement with Egypt and Pakistan. In 1986, while the State Department still harbored concerns about Iraqi terrorist activities, it appears that the Department was satisfied that Iraq had made substantial progress in curtailing terrorist involvement. (Memorandum from Frank McNeil (INR) to the Secretary of State, dated July 1, 1986.) Iraq was viewed as offering unique foreign policy opportunities to the United States, particularly as that foreign policy sought to contain the Iranian influence in that part of the world.

In February 1986, the United States contemplated licensing high technology exports to Iraq, but refused to directly supply U.S. military technology to Iraq, given the official U.S. position of neutrality in the Iran-Iraq war. (Cable from U.S. Embassy in Baghdad to the Secretary of State, dated February 12,

1986.) Nevertheless, between 1985 and 1990, the Reagan and Bush Administrations approved hundreds of export licenses for Iraq. (137 CONG. REC. H6697-6698 (daily ed. July 27, 1992) (statement of Rep. Gonzalez).) It is said that many of these licenses were for "dual use" items, such as heavy trucks and computers, susceptible to both civilian and military applications. (Stanley Cloud, Long Wolf or a Pack of Lies?, Time, Oct. 26, 1992, at 40.)

After the Iran-Iraq cease fire in 1988, President Bush adopted the approach taken by the Reagan Administration and continued to offer Iraq incentives to join the "family of nations." On October 2, 1989, President Bush signed National Security Directive 26 ("NSD-26") in an effort to foster economic and political ties with Iraq. I have obtained from the NSC a declassified version of that document (Ex. 24.), which reads, in pertinent part, as follows:

Normal relations between the United States and Iraq would serve our longer-term interests and promote stability in both the Gulf and the Middle East. The United States Government should propose economic and political incentives for Iraq to moderate its behavior and to increase our influence with Iraq. At the same time, the Iraqi leadership must understand that any illegal use of chemical and/or biological weapons will lead to economic and political sanctions, for which we would seek the broadest possible support from our allies and friends. Any breach by Iraq of IAEA safeguards in its nuclear program will result in a similar response. Human rights considerations should continue to be an important element in our policy toward Iraq. In addition, Iraq should be urged to cease its meddling in external affairs, such as in Lebanon, and be encouraged to play a constructive role in negotiating a settlement with Iran and cooperating in the Middle East

peace process.

Strong voices in Congress have contended that our foreign policy toward Iraq, as embodied in NSD-26, and thereafter implemented, was a mistake. Iraq invaded Kuwait in August 1990, and before long, the U.S. was involved in war with Iraq as well. Critics have said that the decisions of the Reagan and Bush Administrations to encourage U.S. ties to Iraq allowed Iraq's illicit military procurement network to flourish in this and other countries. From this proposition they move to the massive aid given Iraqi institutions in 1985-1989 by BNL-Atlanta, charging that in 1988-1989, through the MTL loans, Iraq was enabled to acquire military equipment through the Iraqi military procurement network. It is also contended that commodities purchased by Iraq pursuant to the USDA CCC guarantee program financed by BNL-Atlanta in 1985-1987 were diverted or bartered to obtain arms for Iraq's military.

Even if some of the foregoing assertions are unfounded, there is no uncertainty about what U.S. foreign policy was, nor is there any question that it failed to achieve what was sought. I now turn to the question whether the Administration attempted to "cover up" this failed foreign policy by improperly interfering with the BNL investigation and prosecution.

B. Was Improper Influence Attempted Or Exerted Upon DOJ Or The Atlanta USAO In The BNL Investigation And Prosecution?

1. The Commodity Credit Corporation

I shall examine this question in the first instance through consideration of a specific program, namely, the CCC GSM-

102 and GSM-103 program. As described above, BNL participated in the CCC program in the sale of U.S. products to Iraq. This participation came under close scrutiny by, among others, Representative Gonzalez.

Representative Gonzalez had been planning to convene a hearing of his Committee on the BNL matter in October 1990, when he received a telephone call from then-Attorney General Thornburgh in September 1990. This call was prompted by a memorandum to Thornburgh from W. Lee Rawls of the DOJ Office of Legislative Affairs, which described unsuccessful attempts by DOJ officials to discourage the Committee investigation. Rawls advised Thornburgh that "[o]ur best attempt to thwart any further congressional inquiry by the House Banking Committee into this case is to have you contact Chairman Gonzalez directly." (Memorandum from Rawls to Thornburgh, undated.)

When Representative Gonzalez refused to discuss the matter with him, Thornburgh wrote a letter expressing his "profound disappointment" in Representative Gonzalez's decision to ignore DOJ's "strong objections." Thornburgh added:

As you should be aware, this is a sensitive case with national security concerns. The United States Attorney in Atlanta advises me that both witness security and the willingness of witnesses to continue to cooperate with the investigation and prosecutions will be jeopardized by your Congressional staff interviews and hearing.

(Letter from Thornburgh to Gonzalez, dated September 26, 1990.)

Representative Gonzalez took this communication as an attempt to interfere with his Committee's investigation. The unfortunate use of the words "national security" may have led

Representative Gonzalez to conclude that DOJ sought to obstruct a Congressional inquiry when, instead, it sought to protect the integrity of an ongoing criminal investigation. Indeed, this impression, combined with BNL's involvement in the CCC program with Iraq, led Representative Gonzalez and others to question whether this perceived interference with his Committee's investigation was part of a larger "coverup" of the Administration's "flawed" foreign policy, which included promoting the extension of CCC credit guarantees for Iraq.

Consistent with U.S. foreign policy at the time, the GSM programs were used by both the Reagan and Bush Administrations to strengthen the U.S.-Iraq relationship.⁸⁸ The GSM programs were

⁸⁸ Eximbank has also been an important element in the relationship between the U.S. and Iraq. Eximbank has financed U.S. exports to Iraq by providing guarantees, insurance and loan support to United States exporters and banks, thereby indemnifying them against the risk of nonpayment. (137 CONG. REC. H848 (daily ed. February 4, 1991) (Statement of Rep. Gonzalez).)

As with the CCC program, political considerations have been brought to bear upon Eximbank decisions. (Memorandum from Kimmitt to Baker, dated April 17, 1990.) It has been alleged that in 1984, Eximbank, which had initially concluded that Iraq was not creditworthy, was successfully pressured by then-Vice President George Bush to agree to provide financing for the Aqaba pipeline in Iraq. (Waas and Unger, In the Loop: Bush's Secret Mission, The New Yorker, November 2, 1992, at 71.) By 1989, however, Eximbank had concluded that Iraq was "not creditworthy by any reasonable standard." (April 24, 1989 Creditworthiness Assessment of Iraq.)

Eximbank did not bow to political pressure when, while considering a proposal for a Volvo-General Motors Truck plant in Iraq, Eximbank received letters from Congressmen and the Governor of Utah (where a Volvo-General Motors facility was located), urging that Eximbank finance the project. (Letter from Senator Sanford, et al., to James R. Sharpe, dated August 4, 1989; letter
(continued...)

designed to expand foreign markets for U.S. agricultural commodities in specified countries that would normally be unable to purchase these goods on credit. (137 CONG. REC. H848 (daily ed. February 4, 1991) (statement of Rep. Gonzalez).) Under these programs, the CCC guarantees payment to exporters of U.S. agricultural products of a percentage of the "port value" of goods shipped in the event of default. Exporters often sell these guarantees to financial institutions at a discount rather than wait for payment from the importing country.

Before the beginning of each year, USDA negotiates through its Commodity Divisions and the Foreign Agricultural Service ("FAS") with foreign countries interested in participating in the GSM programs. FAS then allocates the credit guarantees among the potential recipients, establishing specific "country lines" by commodity. (137 CONG. REC. H848 (daily ed. February 4, 1991) (statement of Rep. Gonzalez).) These proposed allocations are subsequently presented for advice to the National Advisory Council on International Monetary and Financial Policy ("NAC"), an

²⁸(...continued)
from Senator Hatch, et al., to John Macomber, dated September 13, 1989; and letter from Governor Norman H. Bangertter to John Macomber, dated September 17, 1989.) Eximbank refused to fund the project, apparently because of concerns about Iraqi creditworthiness. (Letter to Governor Bangertter from John Macomber, dated September 27, 1989.) According to Drogoul, the Iraqis turned to BNL-Atlanta for financing upon learning of Eximbank's refusal. (Memorandum of August 18, 1992, Drogoul Interview at 8.)

interagency body⁸⁹ established pursuant to 22 U.S.C. § 2866 to advise the President on general policy directives for the International Monetary Fund, Eximbank, the CCC and other agencies that participate in making foreign loans or engage in foreign financial, exchange or monetary transactions.

Iraq began purchasing U.S. agricultural commodities under the GSM program in 1983, when the United States and Iraq reestablished diplomatic relations. Iraq was engaged in what became an eight-year war with Iran, and wanted to obtain food on credit. At the same time, the United States had a surplus of many agricultural commodities, and determined that Iraq's long-term food needs presented significant market development potential. (October 16, 1990, Testimony of F. Paul Dickerson before Gonzalez Committee at 8.)

In 1983, Iraq purchased \$364 million in U.S. agricultural commodities under the GSM-102 program. The program grew throughout the 1980s, with peak allocations in 1989 and 1990 of over \$1 billion annually. (*Id.*) In fact, by 1990, Iraq accounted for approximately one-fifth of the total GSM credit program, and was

⁸⁹ The NAC is composed of the Secretary of the Treasury, who is Chairman of the Council; the Assistant to the President for Economic Affairs, who is Deputy Chairman; the Secretary of Commerce; the Chairman of the Board of Governors of the Federal Reserve System; the Chairman of the Institutional Development Cooperative Agency; and the President of the Export-Import Bank. By Executive Order, the President has delegated to the Secretary of the Treasury most of the functions and responsibilities conferred on him to administer the NAC.

one of the largest importers of U.S. agricultural products.⁹⁰ (Letter from Reps. Brooks and Andrews to Sec. Yeutter, dated May 7, 1990.)

Public attention first centered on Iraq's involvement in the CCC program during the negotiations for Iraq's CCC allotment for FY 1990. In early October 1989, just two months after the FBI-Federal Reserve search of BNL-Atlanta, USDA first proposed to the NAC a program for Iraq involving \$1 billion in export credit guarantees. USDA encountered strong opposition from the Federal Reserve and the Treasury Department, both of which expressed grave concerns about Iraqi creditworthiness, and raised questions about the implications of the unfolding BNL matter. Although this first effort failed, USDA continued to press for a full \$1 billion program for Iraq. The State Department⁹¹ gave strong support to this proposal as a natural reinforcement of U.S. foreign policy in

⁹⁰ After 1987, BNL was no longer involved in extending credits to Iraq under the CCC program, having moved to MTL agreements, although Iraq continued to participate in the program.

⁹¹ In early November, 1989, Jay Bybee, then-Associate Counsel to President Bush, was asked by Deputy White House Counsel John Schmitz to obtain background information on the proposed CCC loan guarantees to Iraq. According to Bybee, Schmitz was concerned that USDA and the Department of State were moving too quickly, and he "wanted to know whether there was any reason why the White House Counsel's office shouldn't work within the White House to try to stop the loan guarantees to Iraq." (Memorandum of Interview, dated July 16, 1992, Bybee Interview.) Bybee claims, and I have seen no evidence to contradict him, that he called for the sole purpose of obtaining publicly available information about the status of the investigation, and did not attempt to exert any pressure on the USAO to change the pace or nature of the investigation. McKenzie supports this, and stated she sensed no pressure from Bybee's call, nor was her handling of the case influenced in any way.

the Persian Gulf.

By mid-October, the magnitude of the BNL matter and its implications for the CCC program were beginning to emerge and so it was determined that a USDA team from the General Counsel's Office ("USDA-OGC") would be sent to Atlanta to conduct a separate investigation pursuant to USDA's regulatory authority over the CCC program.⁹² On October 11, 1989, two members of the USDA-OGC met for several hours with McKenzie and others to discuss the status of the case.

McKenzie was limited by Georgia local district court rules and the need to protect the ongoing investigation of BNL-Atlanta and others as to the information she could release. She briefed the USDA-OGC representatives within permissible parameters, however, about the evidence she had at that time. According to memoranda describing that meeting, McKenzie advised them of possible irregularities with respect to "consulting fees" paid to Iraqi companies (including XYZ Corp. and Matrix-Churchill), kickbacks to BNL employees from Entrade, Inc. (a major GSM exporter), Iraqi bartering of CCC shipments, over-pricing, and the shipment of non-agricultural and non-U.S. goods through the CCC program. (Status Report from Brosch to Conway and Bullington, dated October 20, 1989.)

Following further investigation, including a trip to

⁹² Special Agents from USDA's Inspector General's office were already participating in the criminal investigation in conjunction with the USAO, but their work was entirely separate.

Baghdad to interview Iraqi officials, the USDA issued a report of its findings in May 1990. By this time, six Iraqi defendants had been included in the latest draft of the BNL Indictment. Having been furnished with a draft report stating that there was insufficient evidence of Iraqi complicity in BNL-Atlanta's loans, McKenzie said that the report did not accurately reflect the information she had provided to USDA-OGC. She wrote a number of letters to her superiors at DOJ asserting that USDA had ignored the information she had offered and warning that the USAO might be unfairly charged with nondisclosure of relevant information.⁹³ (See, e.g., Memorandum from McKenzie to Urgenson, dated May 7, 1990.)

As we now know, primarily on foreign policy grounds and

⁹³ On May 7, 1990, McKenzie wrote to Urgenson that the draft USDA report "reinforces the position of this office that USDA should be notified in writing of Iraqi complicity in criminal violations." She asserted that specific information orally provided to USDA by the USAO had been "totally ignore[d]," and added that:

This office certainly recognizes that we do not 'make policy,' nor do we seek to do so. However, when relevant information is shared with policy makers and we have reason to believe that such information is being 'misunderstood' to such an extent that Congress may be mislead [sic], it seems appropriate to correct any such 'misunderstanding' before the remaining \$500 million in CCC guarantees for Fiscal Year 1990 are extended to Iraq.

(Memorandum from McKenzie to Urgenson, dated May 7, 1990.)

out of consideration for our agricultural interests,"⁹⁴ USDA and the State Department ultimately overcame NAC resistance and on November 8, 1989, obtained NAC approval for \$1 billion in CCC funding for Iraq in Fiscal Year 1990, from which one \$500 million tranche was released prior to the 1990 Gulf War. This decision was very controversial, and the varying positions were strongly stated. For example, an internal State Department memorandum to Secretary James A. Baker, III, warned that "our ability to influence Iraqi policies in areas important to us, from Lebanon to the Middle East peace process, will be heavily influenced by the outcome of the CCC negotiations." (Memorandum from Kelly and Sofaer (through Kimmitt and McCormack) to the Secretary of State, dated October 26, 1989.)

As a basis for extending the guarantees, USDA and the State Department asserted at each stage of the process that there was "no evidence to date that would lead us to recommend that the Department should not extend the guarantees [to Iraq]." (Informational Memorandum from Snead to the Deputy Secretary, USDA, dated November 8, 1989.) This claim, of course is inconsistent with McKenzie's statements to the contrary.

⁹⁴ Agricultural interests lobbied strongly in favor of providing further CCC guarantees to Iraq. For example, between March and June 1990, at least twelve Members of Congress as well as representatives of the rice industry wrote to Clayton Yeutter, Richard Crowder, or members of the USDA Congressional Relations staff inquiring into the status of the Iraq CCC program. (See, e.g., letter from Sen. Thurmond to John Frydenlund, dated March 23, 1990; letter from Sens. Lott and Cochran to Clayton Yeutter, dated April 26, 1990; letter from Sen. Shelby to Franklin Bailey, dated May 10, 1990; letter from Sen. Johnston to Clayton Yeutter, dated June 7, 1990; and letter from Rep. McCrery to Clayton Yeutter, dated June 14, 1990.)

It is not within my responsibility to address the wisdom of the decision to extend CCC guarantees to Iraq for Fiscal Year 1990, but I do note that McKenzie had intended that the information she supplied the USDA be taken as a caution. In view of the constraints imposed on prosecutors against disclosure of information collected in ongoing investigations, the extent to which McKenzie was able to advise USDA as to Iraqi criminal complicity is uncertain. However, it is clear that there was no doubt in McKenzie's mind that she had provided enough information to allow USDA to understand the Iraqi complicity in Drogoul's scheme and that she was unaffected by pressure from any government sources, to the extent there was any, to ease the way for the adoption of Iraq's CCC program for Fiscal Year 1990.

It cannot be urged with any degree of credibility that McKenzie, even if we were to assume some corrupt motive, violated any federal criminal provision in her dealings with the USDA. Her statements to the USDA representatives were truthful, and they did not take place within the jurisdiction of an agency, as defined in the law, or in any pending proceeding.⁹⁵ The USDA did not visit Atlanta in connection with any investigation it was conducting; rather, the informal meeting was held at the prompting of the USDA so that it could gather information in connection with a policy decision it faced.

⁹⁵ Omissions typically lead to criminal culpability only in those instances where there is a requirement of information by statute or official form. See, e.g., U.S. v. Hansen, 772 F.2d 940, 943 (D.C. Cir. 1985), cert. denied, 446 U.S. 902 (1980).

In any event, I view the evidence to be clear and convincing that McKenzie did not act with any corrupt motive when she met with the USDA. To the contrary, the record shows that McKenzie took great pains to provide the USDA with all the information she could lawfully disclose.

Nor does the Thornburgh letter, and my study of the circumstances surrounding its dispatch, suggested any corrupt motive on Thornburgh's part. The letter has been characterized by some as an effort to hinder the investigative efforts of the Gonzalez Committee. By its terms, the letter sought to prevent disclosure he feared would damage a complex and important prosecution.

I personally deposed Thornburgh, and found that the statements made by Thornburgh to Gonzalez were neither false nor misleading. Thornburgh's desire to protect the prosecution of this undeniably sensitive case is objectively reasonable.

In addition, Thornburgh's concern with national security was to be expected. President Bush issued NSD-26 less than one year earlier. That security directive called for the normalization of relations between the United States and Iraq. At the time Thornburgh wrote his letter, the USAO had made it known that it was targeting Iraqi nationals and focusing on CBI and Rafidain Bank. Even if the letter perhaps overstates his concern, it is still true. I believe that the evidence is clear and convincing that Thornburgh did not act with corrupt intent.

C. Did The Foreign Policy Of The United States Toward Iraq, As Defined Above, Impact Upon The Government's Investigation and Prosecution?

The answer to this question is clearly "No." I arrive at this answer by several different routes.

First, addressing the continuation of the CCC program, the USAO knew that the USDA and State Department were determined to push through another \$1 billion in guarantees for Iraq grain purchases for Fiscal Year 1990. A delegation from the USDA travelled to Atlanta to speak to representatives of the U.S. Attorney's Office, and McKenzie was advised that the Secretary of State considered it very important to U.S. foreign policy toward Iraq that the program be approved. Nonetheless, McKenzie and other attorneys in the USAO, and the DOJ as well, continued to pursue Indictments against Iraqi participants in the CCC program based on evidence that Iraqis might have been criminally involved in Drogoul's "off-book" activities. While information provided by the USAO did not persuade USDA and the State Department to withdraw their support for Iraq's participation in the CCC program -- \$500 million in guarantees was actually released prior to the 1990 Gulf War -- neither did the position of USDA and the State Department affect their prosecution. With the exception of the Central Bank of Iraq, which I separately address, the USAO proceeded to indict all appropriate Iraqi interests, including Rafidain Bank, which is state-owned, and the principals of various other entities. The prosecutors did not buckle, and foreign policy considerations did not move them.

Nor did foreign policy considerations move the USAO not to indict either Wafai Dajani on BNL-Rome. The factual backdrop to these decisions is set forth in substantial length in Section 6 of this Report, and I will not belabor them here. I have seen no credible evidence that either the USAO or DOJ let Dajani's alleged relationships to Jordanians of high station bear on their decision not to seek the return of an Indictment against him on February 28, 1991, even assuming any pressure toward that end had been applied. Similarly, while I am aware that BNL sought a diplomatic solution to the possibility that DOJ would persuade the USAO to include BNL in the Indictment, I have also found no credible evidence to support a charge that BNL's strategy of resorting to diplomatic contacts influenced either DOJ or the USAO in framing the Indictment ultimately returned.

VII. ISSUES RAISED BY JUDGE MARVIN H. SHOOB

Under the terms of my appointment, I am obliged to examine the actions of the USAO prosecution team before Judge Marvin H. Shoob, who presided over the Drogoul BNL-Atlanta prosecution. Judge Shoob has made serious charges against the USAO prosecutors. It is necessary, therefore, that I review their conduct and thus the validity of those charges. At the outset I must state my respect for Judge Shoob, a highly regarded jurist. I have conferred with him in recent weeks and found most helpful his insights into the proceedings. Moreover, I can sympathize with the frustration Judge Shoob must have felt in this matter, given his belief that Drogoul was a tool being manipulated by his

superiors.

In approaching this extremely sensitive area, I have spoken not only with Judge Shoob, but also with the USAO prosecutors and with Mr. Wade of their Task Force. I have examined all of the transcripts and exhibits of the proceedings before Judge Shoob, and all of the documentation pertinent to the matters before Judge Shoob, as reflected in the files of the USAO and the DOJ.

Against this background I shall examine the conduct of the USAO prosecutors.

A. The Terms And Development Of The Plea Agreement

The denouncement of the Atlanta USAO's efforts to conclude its prosecution of Drogoul occurred at the Sentencing Hearing on September 30, 1992, following three weeks of testimony. At that hearing, Drogoul reversed course and sought to withdraw his guilty plea. He also, for the first time, specifically named several BNL superiors whom he claimed had actual knowledge of his "off-book" lending activities to Iraq. The next day, the USAO withdrew its opposition to Drogoul's motion to withdraw his guilty plea and joined the defendant's motion. On October 5, 1992, Judge Shoob entered an Order granting Drogoul's motion and granting the USAO's motion for his recusal (the "October 5 Order") (Ex. 25.)

Judge Shoob's October 5 Order sets forth in some detail his tentative conclusions about the conduct of the investigation and prosecution of Mr. Drogoul, evaluates the USAO's pursuit of facts that might implicate officials at BNL-Rome, and speculates about the role of United States intelligence agencies in that

pursuit. The concerns expressed in Judge Shoob's October 5 Order were presaged by his questions to Drogoul's counsel and McKenzie at the June 2, 1992 hearing on Drogoul's plea agreement. At that hearing, Judge Shoob expressed surprise that Drogoul had entered a plea agreement over the preceding weekend. Judge Shoob expected Drogoul to plead guilty to all counts of the Indictment and to deliver an extended public statement that he previously requested the opportunity to deliver.

Judge Shoob's comments at the June 2 plea hearing reflect concern that the cooperation the government would obtain under the plea agreement would yield a "sanitized" version of the facts. Judge Shoob said:

Well, my feeling, as I have enunciated earlier, is that I don't believe that Mr. Drogoul was the only person involved in these machinations . . . I do not want to be in a position where I have to sentence Mr. Drogoul where he takes the fall when there are other people involved who are equally culpable.
(Transcript of Plea hearing, June 2, 1992, at 104, attached hereto as Ex. 21.)

A special prosecutor ought to get into this entire matter, because I am not getting the information from Mr. Drogoul, and I am going to get a sanitized version of the sentence. I will have no way of knowing what sort of disclosure he has made to the Government and what is presented to me at the time of sentence.

(Id. at 72.)

Judge Shoob took this position notwithstanding the fact that Drogoul, his counsel and McKenzie all supported the plea

agreement.⁹⁶ In fact, when interrogated by Judge Shoob about his satisfaction with the plea agreement, Drogoul explicitly told the Court that he no longer wanted to make the public statement in Court that he previously claimed he would offer:

The point I am trying to make, to really discuss a case like this properly I need literally thousands of documents to kind of refresh my memory and to put the pieces together in proper perspective. To be honest with you, I don't think that I could have written a full disclosure in two weeks. It would have taken much longer.

(Id. at 58.)

I do not possess Judge Shoob's intimate familiarity with the proceedings that have taken place before him, or with his assessment of the credibility of Drogoul, his counsel, and representatives of the USAO. However, because I have had the opportunity to review not only the transcripts of the proceedings before him, but also extensive evidentiary documentation, correspondence of counsel, and internal memoranda, I must disagree with Judge Shoob's apparent dissatisfaction with the plea agreement presented to the Court on June 2, an agreement I find extremely favorable to all parties under the circumstances.

The plea agreement required Drogoul to plead guilty to sixty (60) Counts of the Indictment. Those Counts appear to be representative of the 347 Counts of the Indictment and were sufficient to support a life imprisonment term several times over, absent a successful motion by the government for a downward

⁹⁶ The USAO's Response to Judge Shoob's allegations is submitted herewith as Ex. 26.

departure.⁹⁷ As calculated under the Federal Sentencing Guidelines, Drogoul's sentence would have been no greater if he had pleaded guilty to all 347 counts of the Indictment.

The plea agreement also provided for complete cooperation in the form of a detailed debriefing. As set forth in the plea agreement, the debriefing was to be of indeterminate length so that Drogoul would have ample time to review documents to assist him in reconstructing events. The agreement also required Drogoul to participate in a deposition to provide sworn testimony that could be used by the government in subsequent proceedings flowing from the affairs of BNL-Atlanta or against other violators, and that would create a full record under oath for evaluation of any "substantial assistance" motion the USAO might make.

Finally, the plea agreement called for continued cooperation by Drogoul following sentencing, and permitted him the benefit of a motion for sentence reduction under Rule 35 of the Federal Rules of Criminal Procedure should his post-sentencing cooperation constitute "substantial assistance."

The plea agreement reached between the USAO and Drogoul represents a model of fairness to all parties. The agreement is favorable to the government because it achieves the maximum sentence possible under the Indictment; it gives the government complete control over the decision whether Drogoul's cooperation

⁹⁷ Under Section 5K1.1 of the Federal Sentencing Guidelines, the government can make a motion for a downward departure from the relevant sentencing guideline range if a defendant offers "substantial assistance."

would constitute "substantial assistance"; the debriefing mechanism permits the reconstruction of Drogoul's memory in much greater detail than would otherwise be possible; and the deposition it called for would have created a sworn statement for use in other proceedings, including the sentencing hearing, and against other violators.

The plea agreement was favorable to Drogoul because it committed the government to making a motion for downward departure if he provided sufficient cooperation, putting to rest any fear that the USAO would fail to present the Court with any information Drogoul provided; it allowed Drogoul to be debriefed in detail following whatever time he required to refresh his recollection, thus allaying his concern that his recall would have been inadequate if he were to present only an oral statement to Judge Shoob; and it allowed the creation of a sworn record of his cooperation through a deposition in which he would have been examined on the record by both the USAO and his own counsel, and which would have given him the ultimate protection against concern, if he had any, that the government would not disclose the details of his cooperation.

I would also have thought that the plea agreement was favorable from the Court's perspective, although Judge Shoob did not appear to think so. It would have provided Judge Shoob with an unusually complete record on which to evaluate the extent of Drogoul's promised cooperation. The sentencing record would not be "sanitized", because Drogoul's counsel would have been present at

the debriefing and would have had the opportunity to examine Drogoul during the deposition to elicit any favorable information not sought by the USAO.⁹⁶ As always, Judge Shoob had sole authority to determine whether Drogoul's cooperation warranted a downward departure from the Sentencing Guidelines' range due to substantial assistance.

Thus, I find it unlikely that the process contemplated by the plea agreement would have yielded a "sanitized" story at Drogoul's sentencing.

B. Concern About The "Eleventh Hour" Plea Agreement

Judge Shoob also expressed concern on June 2 that the plea agreement was reached at what he perceived to be the eleventh hour, which, to his mind, cast doubt on the integrity of the negotiations. Judge Shoob said,

The thing is bouncing all over the place. I am not sure exactly what happened. I don't know why a deal was made this very last minute when all these representations were made that he was going to make a full disclosure at the time of the plea. (Ex. 21 at 94-5) . . . I understand the U.S. Attorney's Office has its own agenda and probably your decisions were brought about by long-term experience in

⁹⁶ The minutes of the debriefing sessions reflect that Ms. Tyler, Drogoul's counsel, was present at every one. When I spoke to her about this, she said she thought this was true, except that she might have missed one or two sessions, but that her investigator was present at those. I have read every page of the debriefing memoranda, and have actually visited the room where Drogoul was given his records and worked on reconstructing the hundreds of transactions involved. Indeed, the walls are covered with his notes reflecting his efforts at this reconstruction. I can assure Judge Shoob that the debriefing minutes I read refute Drogoul's suggestion at his subsequent Sentencing Hearing that through the debriefing, the government had attempted to influence or "sanitize" his version of the events.

dealing with these things. All I can tell you is the perception, certainly the public perception and the media perception and my perception was that, when somebody offers to plead to the entire indictment and make a full statement under oath and the government is going to be given an opportunity to present its witnesses at a later date if they take issue with anything the witness has said, the perception is that, when the government cuts some other deal promising certain benefits, that there is some attempt to cover up. (Transcript of Hearing, at 13, attached hereto as Ex. 27.)

In fact, as Drogoul's counsel had explained to Judge Shoob, the plea negotiations had been underway for several months, but without success: "We were negotiating the entire time. We have been negotiating since I have had the case." (Ex. 27.)

As reflected in correspondence between the USAO and Drogoul's then-counsel, Sheila Tyler, the plea agreement was the product of a negotiation that began in earnest May 15, 1992, when little more than two weeks remained before the plea hearing. On May 16, 1992, McKenzie made the initial offer to Drogoul to plead guilty to 60 counts of the Indictment. Letters were exchanged between Tyler and the USAO until May 29, when Tyler advised Chartash, the AUSA who was covering the case during McKenzie's brief absence from the office, that Drogoul was considering the government's offer. After reviewing the proposed plea agreement, Drogoul agreed to it on June 1, 1992. I do not find it surprising that these negotiations did not culminate in an agreement until shortly before the June 2, 1992 scheduled date for the plea hearing. In my experience, it is the rule rather than the

exception that compromises such as these are achieved only at the eleventh hour.

Judge Shoob also appeared concerned that the government, by "giving" up all but 60 counts of the Indictment, compromised its interests, which he found inexplicable. Moreover, he appeared to object to the participation of Chartash in the negotiation."

As established by the correspondence exchanged between McKenzie and Tyler, it was McKenzie who made the 60 count plea offer that was eventually taken up by Drogoul. Chartash merely implemented it. Moreover, as I have noted, the government lost nothing by agreeing to a 60 count plea because it achieved a maximum sentence anyway.

C. The Sentencing Hearing And October 3 Order

The plea hearing before Judge Shoob was followed by 33 debriefing sessions with Drogoul. The debriefing did not begin until Drogoul spent a week reviewing the documents about which the USAO proposed to question him. Drogoul was represented by Tyler and/or Tyler's investigator, Michael Hutchenson, at all debriefing sessions. The last debriefing took place August 20, 1992. A new attorney, Bobby Lee Cook ("Cook") took over Drogoul's representation about that time, and Drogoul refused further cooperation.

Drogoul's sentencing hearing began September 14, 1992,

" At one point in the proceedings it appeared that Judge Shoob was under the impression that Chartash may have gone directly to Atlanta from the DOJ in Washington to negotiate the plea bargain. I believe this impression was corrected on the record by Mr. Chartash.

with a week of testimony by witnesses offered by the government. In his opening statement, Cook alleged that the U.S. intelligence agencies and BNL-Rome had known contemporaneously of BNL-Atlanta's unauthorized loans to Iraq, and claimed that the DOJ was engaged in a cover-up for political and foreign policy reasons. The transcript of the proceedings reflects that Cook continued to receive, and make reference to, Congressional statements, CIA documents and other materials throughout the sentencing hearing. (Opening Statement of Cook, September 14, 1992, at 25, 45.) However, it is not clear what specific materials Cook had in his possession to support his references, or how he obtained those materials. The USAO was surprised and disturbed by the Cook's statements.

On September 21, Judge Shoob denied a motion brought by Cook to withdraw Drogoul's guilty plea. In the days that followed, the Court heard testimony from witnesses called by Cook. That testimony is too extensive to recount here, but it is fair to say that at first blush, much of it could have appeared to conflict with previous statements made to the Court by witnesses, other defendants, and Drogoul himself.

For example, on June 2, when his guilty plea was entered, Drogoul testified in a three-hour hearing, and addressing the question of BNL's knowledge, said nothing more specific than that his superiors at BNL-Rome should have known of his unauthorized activities: "They [BNL-Rome] were probably aware that we were exceeding our authority." (Id. at 85.) In response to Judge

Shoob's question whether "anybody at the home office of BNL was aware of your off book set up," Drogoul stated, "I would say that they were not aware -- not specifically . . ." (Id.)

On September 30, however, Drogoul testified that his conduct was known to and authorized by his superiors. (Testimony of Drogoul, September 30, 1992 at 1713.) Drogoul stated that Pedde, Lombardi, Monaco, and Guadagnini "knew what was going on." (Id.) Drogoul also stated that he told BNL-Rome that if they wished him to continue the business something had to be done with Mr. Sardelli, because Sardelli did not know what was going on. He said that "within the month, a month and a half Sardelli was removed back to Rome." (Id. at 1807.)

Drogoul's reversal posed a problem for the USAO. After considering it overnight, Acting U.S. Attorney Brill addressed the Court the following day to set forth the USAO's position. Brill said the government would join Drogoul's motion to withdraw his guilty plea and requested that the matter be set for trial. She stated that the government was not willing to be part of a sentencing proceeding pursuant to a plea agreement, where the defendant suddenly contended he was innocent. She also informed Judge Shoob that the government would seek his recusal.

Judge Shoob agreed that the matter should be tried, and granted defendant's motion. Judge Shoob also said that he would recuse himself on the government's presentation of a written motion, because he had already reached certain tentative conclusions. Judge Shoob said that his review of the evidence had

convinced him that BNL-Rome was not a victim (Ex. 25 at 6.) and that its personnel knew or had deliberately shut their eyes to the obvious activities at BNL-Atlanta.

Judge Shoob elaborated on these conclusions in the October 5 Order, in which he said that the evidence presented at the sentencing hearing "raised such serious questions that the Court concluded that these issues could not appropriately be taken up on a motion for downward departure but should be heard at trial." (Ex. 25 at 5.) Judge Shoob appeared to believe that the government withheld information critical to the question of Drogoul's guilt or innocence.

D. Judge Shoob's Specific Charges

Judge Shoob's October 5 Order makes serious charges against the DOJ and the USAO. He said the evidence presented at the sentencing hearing suggested that the USAO had not fully investigated the facts, and suggested that in recognition of that fact, they had joined Drogoul's motion to withdraw his plea. (Ex. 25 at 3-4.) In light of the gravity of these charges, I address below each of the tentative factual conclusions in the October 5 Order. As I have stated, I cannot presume to place myself on a par with Judge Shoob's familiarity with the facts presented at the hearing and his opportunity to evaluate the witnesses' credibility. Nonetheless, and with utmost respect, I find that certain of Judge Shoob's conclusions are not supported by the record at the sentencing hearing or the other evidence I have considered.

1. The Knowledge of Officials at BNL-Rome

In his October 5 Order, Judge Shoob concluded first that officials at BNL-Rome were aware of and approved Mr. Drogoul's activities. I set forth here each item he identified in support of his conclusion, followed by my own comments.

- a. Classified reports from the CIA conclude, in part, that a number of high-level BNL-Rome officials supported Mr. Drogoul's activities.

My analysis of this "conclusion" contains classified information and thus is submitted in Part II of my Report. See also Section V, infra.

- b. A senior BNL official, Mr. Monaco, referred an Italian company seeking financing for a major construction project in Iraq to BNL-Atlanta.

The mere fact that Mr. Monaco referred the Danieli Steel Company to BNL-Atlanta for financing of a construction project in Iraq does not suggest to me that BNL-Rome knew or was willfully ignorant of Drogoul's "off-book" and unauthorized activities.¹⁰⁰ There was nothing unusual about the Danieli transaction that would have alerted BNL-Rome to Drogoul's illegal activities. BNL-Rome was aware that BNL-Atlanta had a preexisting relationship with Iraq because BNL-Rome had previously authorized certain CCC transactions through BNL-Atlanta. These prior dealings made BNL-Atlanta a logical choice to finance the project after BNL-Rome determined that it would not be prudent to finance the project in Italy

¹⁰⁰ Again, I point to the four MTIs. The last of these, executed by Drogoul in April 1989, was an agreement for an unsecured loan of \$1.155 billion to Iraq on terms unfavorable to BNL, at a time when BNL was rejecting Iraqi requests for loans unless they were fully collateralized.

through the Rome branch.¹⁰¹

- c. The former head of BNL's North American operations, Dr. Luigi Sardelli, provided credible testimony showing that senior officials in Rome approved or had knowledge of Mr. Drogoul's activities.

Judge Shoob characterizes Dr. Sardelli as a "straight-shooter" (see 3(b) below). I have reviewed Dr. Sardelli's testimony and have concluded, as did the drafter of the Italian Parliamentary Report, that he is, at best, evasive and nonresponsive. For example, the Italian Parliamentary Report notes:

In his first hearing before a delegation of the Committee (November 1990) Sardelli denied:

1. having read the final report of the auditor Messere;
2. that he knew that the BNL Atlanta office had a clearing account with the Morgan Bank;
3. that he knew that the BNL Atlanta office had close relations with Iraq.

Subsequently it was established that:

as regards point 1, the final Messere report was signed also by Dr. Sardelli;

as regards points 2 and 3, from communications sent to him personally, Dr. Sardelli had been made aware of these facts.

(Ex. 20 at 91.)

Moreover, none of the points in Sardelli's testimony to

¹⁰¹ As implemented by Drogoul, however, the transaction was collateralized by BNL's own funds. There is nothing to suggest that Monaco was aware of this highly undesirable feature of the transaction. In fact, the evidence I have reviewed is to the contrary. A more detailed discussion of the transaction is set forth at Section V, SUPRA.

which Judge Shoob refers establishes BNL's awareness or approval of Drogoul's activities. In fact, Sardelli testified that he had no personal knowledge that anyone outside BNL-Atlanta was aware of Drogoul's "off-book" activity, and that he was convinced by Drogoul's statements that nothing unauthorized was occurring at BNL-Atlanta. (Testimony of Sardelli, September 29, 1992, at 1558.)

(i) Sardelli's letter criticizing defendant's activities was never delivered by the auditor to officials in Rome.

The fact that Sardelli's letter was never delivered does not indicate to me that BNL-Rome knew of Drogoul's activities. Sardelli's letter does not detail any of Drogoul's "off-book" commitments to Iraq. Even if it did, it could have alerted BNL officials in Rome only if it had been delivered.

(ii) Instead of auditing or investigating BNL-Atlanta, BNL-Rome officials elected to investigate Dr. Sardelli who appears to be the only "straight-shooter" in the organization.

As noted above, I question Judge Shoob's characterization of Sardelli as a "straight-shooter." In addition, based on the evidence I have reviewed, Judge Shoob is incorrect in his assertion that BNL-Atlanta was not audited by BNL-Rome auditors. BNL-Rome auditors did not audit Atlanta because when they were in the United States, Messere already had an audit of BNL-Atlanta underway, and BNL-Rome decided not to duplicate the effort. (Testimony of Sardelli, September 29, 1992, at 1559-60.) It should also be noted that it was Messere's audit report that caused BNL-Rome to require regular audits to be conducted of BNL-Atlanta to guarantee compliance with U.S., Italian, Georgia and BNL banking practices,

policies, and procedures.¹⁰²

(iii) BNL-Rome was an extremely political organization operating more as an agency of the Italian government than as a bank.

Whether BNL-Rome is a political organization or a bank does not bear on whether BNL-Rome knew or approved of Drogoul's off-book activities. It is true that BNL is largely state-owned, but I find this unremarkable. I do not believe that one bank would have deliberately risked the large, predictable losses encountered on the "grey book" loans, at the low spreads and fees charged, even for purposes of public policy or the possibility of political gain.

(iv) Dr. Sardelli voiced his frustration with BNL-Rome in testifying that the BNL-Rome officials sent to the United States to investigate the Atlanta branch after the raid were the officials who should have been investigated.

Sardelli's statement that the officials inspecting BNL-Atlanta were the ones who should have been inspected appears to be based on the erroneous assumption that managers or officials from the head office were inspecting BNL-Atlanta. (Testimony of Sardelli, September 29, 1992, at 1603). The BNL-Rome Inspectorate Division, which I understand to be wholly independent, inspected BNL-Atlanta, and not the managers and officials from the head office. (Id.)

(v) Dr. Sardelli testified that he believes officials at BNL-Rome knew of Mr. Drogoul's activities.

Although Sardelli said that he believed someone at BNL-

¹⁰² See also, Section V, *supra*, where the many audits of BNL-Atlanta are described.

Rome must have known, he did not offer any direct or circumstantial evidence of BNL-Rome's knowledge or complicity in the scheme. In fact, he made it clear that he never had any conversation with anyone at BNL-Rome or BNL-New York that revealed authorization of Drogoul's "off-book" lending. (Testimony of Sardelli, September 29, 1992, at 1558.)

- d. There is evidence that documents may have been shredded by BNL officials shortly after the raid and that some files and documents are missing.

I have no reason to believe that following the raid on BNL-Atlanta bank, documents were shredded or that files and documents are missing. Representatives of the FBI, New York and Atlanta Federal Reserve, Georgia Department of Banking and Finance, BNL's Italian Regulatory Authority, the Bank of Italy, and BNL's management were on the bank's premises shortly after the search. Any destruction or shredding of pertinent bank records or files, therefore, would have had to have been conducted in the presence of these investigators and regulators. Although Von Wedel claimed that Messere shredded bank documents following the execution of the warrant on August 4, 1989, Von Wedel also testified that he had reviewed the files he thought might have been shredded and found nothing missing. (Testimony of Von Wedel, September 24, 1992, at 1224.) This issue has been amply investigated by the USAO, and it does not appear that there is any credible evidence that this event actually took place.

- e. BNL branches in Germany, England and Canada were aware of BNL-Atlanta's substantial financing of Iraqi purchases and projects.

As I stated previously, BNL-Rome was aware that Drogoul had dealings with Iraq, and I am convinced that this relationship may well have been known to other BNL branches such as BNL-Germany, BNL-England, and BNL-Canada. This knowledge, however, does not support the conclusion that they all knew of Drogoul's "off-book" unauthorized activities at BNL-Atlanta, or the \$2 billion in MTLs. The Task Force interviewed officers of BNL-Germany, BNL-London, BNL-Canada and BNL-Rome. These interviews show that the "off-book" activities of BNL-Atlanta had been effectively concealed.

- f. The Government's witnesses from Morgan Guaranty and the Bank of New York and confidential CIA reports concluded that it was well-known in international banking circles that BNL-Atlanta provided substantial financing for Iraq's purchase of agricultural, military and non military products.

Based on my reading of the testimony of William F. Williams, Bank of New York, and Francis J. Cole, Jr., Morgan Guaranty Trust Company, I must respectfully disagree with Judge Shoob's observation concerning the testimony of these witnesses. In fact, their testimony is to the contrary:

By the Court:

Q. Let me ask you this, Mr. Williams. Having been involved in international banking circles as long as you have, was it well-known in 1986, '87, '88 that the Atlanta branch of BNL was involved in substantial financial transactions with Iraq?

A. No. I was never aware that they were involved specifically with Iraq. As I said, we became aware that they were involved or active in financing CCC. I don't recall whether, specifically, we were aware of Iraq. There was not general knowledge as you describe it.

(Testimony of Williams, September 22, 1992, at 734.)

Francis Joseph Cole, Jr., testified in like manner:

Q. Now, was there anything the BNL-Atlanta clearing account that alerted you or anyone else at Morgan to anything unusual or unauthorized in its nature?

A. No, ma'am.

(Testimony of Coles, September 22, 1992, at 747-48.)

* * *

Q. And prior to August of 1989 did anything about the BNL-Atlanta account cause talk within your institution?

A. Not at all.

(Id. at 757.)

g. The Italian Parliament's extensive report on the "BNL scandal" concludes that Mr. Drogoul was not a "lone wolf" and that BNL-Rome's failure to adequately supervise the Atlanta branch permitted the continued illegal activity.

As Judge Shoob notes, the Italian Parliamentary Report criticizes senior BNL-Rome officials for inadequately supervising and auditing BNL-Atlanta. It also suggests that BNL tolerated Drogoul's activities. As I have noted before, although BNL may have known that Drogoul had exceeded his authority in certain activities, I cannot believe BNL would have condoned the MTLs.

h. Mr. Drogoul's co-defendant Paul Von Wedel and Jean Ivey, a BNL-Atlanta employee who was granted immunity, testified that they believed that officials in Rome were aware of BNL-Atlanta's involvement with Iraq -- testimony the Court found credible. Mr. Von Wedel also testified that Mr. Drogoul had regular access to Dr. Giacomo Pedde, the director general of BNL, that Mr. Drogoul met with Mr. Monaco, a senior BNL official, in Baghdad,

and that Mr. Florio, another senior BNL official, verbally approved early CCC loans to Iraq.

I share Judge Shoob's concerns that many of Drogoul's recent allegations about his relationship with BNL-Rome suggest that BNL-Rome "should have known" of certain of his activities. However, I believe that his allegations establish nothing more than an area calling for further investigation. Although Von Wedel and Ivey suggest that someone at BNL-Rome must have "known," to date neither Von Wedel, Ivey nor any other BNL-Atlanta employee has provided any direct or circumstantial evidence of BNL-Rome's knowledge or complicity in Drogoul's scheme.¹⁰³ Now that they have received immunity, they have no reason to withhold information.

1. Mr. Drogoul's first attorney, Theodore Lackland, testified credibly that several individuals involved with the allegedly fraudulent transactions told him that officials in Rome were aware of the transaction and in fact had in their possession one of the allegedly fraudulent loan agreements (MTL-4).

I have to give little weight to Lackland's testimony that employees at BNL-Atlanta told him that they believed BNL-Rome knew of BNL-Atlanta's activities. These employees have not come forward and testified as to BNL-Rome's awareness of Drogoul's activities based on their personal knowledge. Indeed, several testified that they assisted Drogoul in concealing the loan transactions from Rome and the Italian and U.S. bank regulators,

¹⁰³ I have set forth at length in Section V, *supra*, Von Wedel's repeated statements, in response to the Court's questions at Von Wedel's plea hearing, that BNL-Atlanta's "off book" activities were not authorized.

which is inconsistent with a belief that BNL-Rome was aware of the scheme. Moreover, Bruce Kirwan, an attorney for BNL, had already testified at an earlier proceeding before the Court that BNL did not have MTL-4. Lackland's hearsay testimony should not outweigh this.

- j. As the "victim" in this matter, BNL-Rome may be able to recover \$1-2 [sic] billion in unpaid CCC-backed loans to the Iraqis.

The Indictment generally alleges that defendants defrauded the CCC by issuing standby letters of credit, in connection with the CCC Export Enhancement Program, in excess of amounts authorized and representing to the CCC that BNL-Atlanta was a bank qualified to issue such letters of credit (Counts 225-40, 45); registering a commodity sale in excess of the true port value (Counts 222-224); and falsifying two CCC payment guarantees (Count 245). The CCC, however, did not suffer any losses with respect to these transactions because the standby letters of credit and the falsified payment guarantees lapsed, and all payments were made on the commodity sale registered in excess of its port value, before there was any loss claimed against the CCC. Therefore, whether BNL is the "victim" or the "villain" is irrelevant here because the CCC has not suffered any losses as a result of the alleged frauds.¹⁰⁴

- k. When notified of the [sic] August 4, 1990, raid, Mr. Drogoul returned immediately to the United States, leaving his family in France. He met with BNL officials in New York, was furnished an attorney who was to be paid by the bank, and

¹⁰⁴ Judge Shoob incorrectly states that \$1-2 billion is the amount of unpaid CCC-backed loans. The actual amount is \$347 million.

continued as manager of the Atlanta branch for a week.

In my opinion, Drogoul's return to the United States does not suggest that BNL-Rome knew of or participated in his illicit activities. Indeed, his return was not immediate. He first stopped in London to confer with his Iraqi contacts who instructed him to return to Atlanta to maintain the appearance of normality. A passage in which he describes his Iraqi meeting is worth quoting at length, because it addresses Judge Shoob's point:

In retrospect, Drogoul sees that he was again manipulated by the Iraqis for their own purposes when they urged him to immediately return to the United States to do damage control and give the appearance of normalcy after scheme deletion on August 4, 1989. This occurred when Drogoul immediately called Taha in London when he learned of the August 4th search of BNL-Atlanta while vacationing in Paris. At Taha's urging, Drogoul flew from Paris to London arriving on Saturday night some 15 hours after his call to Taha. By this time Ali was also present. Drogoul skipped dinner and went directly to Ali's room where he, Ali, Taha and Fidel Jawad Kahdum, the attorney for the Iraqi Ministry of Industry and Military Production, met for a number of hours. Ali was on the phone to Baghdad at least 25% of the time. The ultimate conclusion of the Iraqis -- which Drogoul had already reached himself but not shared -- was that Drogoul's presence in Atlanta would help with damage control, give more appearance of normalcy than had Drogoul become a hunted fugitive and hopefully encourage continued funding under the unused portions the MTIs . . . The Iraqis were quite upset when Drogoul's return did not alleviate altogether their problems arising from the BNL-Atlanta scandal which they perceived as interfering with getting the additional \$1.2 billion in CCC guarantees they sought in October 1989.

Although Ali was often coarse and not always as subtle as others in the Iraqi network, such

as Taha, he was a successful manipulator in his endeavors with Drogoul including obtaining the ever increasing MTLs in ever increasingly [sic] frequency and magnitude, distracting Drogoul from the increasingly evident conclusions that MTL purchases were for non-civilian usage and finally convincing him to return to the United States after the events of August 4, 1989 without disclosing Iraqi criminal complicity in the scheme to defraud BNL-Atlanta. (Memorandum of June 23, 1992, Drogoul Interview.)

It should also be noted that at the time of the search, the nature and scope of the fraud had not been established. The fact that BNL-Rome did not immediately fire Drogoul and, in fact, initially offered to provide him with counsel is, in my view, more indicative of the uncertainty of the situation than of BNL-Rome's complicity.¹⁰⁵

1. Mr. Drogoul's chief mentor at BNL in 1986-87 retired from BNL in 1987 and became a consultant at Entrade, a defendant in this case and a participant in the scheme.

Mr. Guadagnini's acceptance of a consulting position at Entrade subsequent to his retirement at BNL raises some questions. I believe that both Drogoul's own statements, and the information provided by Pamela Prosser, go far to address them. In the written statement he prepared for his attorneys, Drogoul explained that he began the practice of "skipping" loans off the books to hide transactions from Guadagnini:

During my visit to Venice, our Regional

¹⁰⁵ Minutes of the August 11, 1989, BNL Board of Directors meeting state that Drogoul was "temporarily laid off without pay" on this date. Thereafter, according to meeting minutes dated September 6, 1989, Drogoul was discharged from employment as of the September 6 board meeting.

Manager Mr. Guadagnini was criticized by his superior for allowing the Atlanta Branch to maintain a considerable excess for Rafidain Bank . . . My regional manager sat down with me there and told me to clear up the problem.¹⁰⁶

Upon my return to Atlanta, Paul, Therese, Robert, Mela and I decided that the best way to handle the situation would be to skip the excess amounts off the books on the last day of the month, i.e., on the day the computer reports were examined by Rome.¹⁰⁷

(Ex. 16 at 4.)

Thus, it is unlikely that Guadagnini could be charged with complicity in Drogoul's scheme. Moreover, Prosser, an Entrade employee, stated that Guadagnini had no decision-making responsibility at Entrade, and was kept isolated from the BNL-Atlanta transactions once he arrived. To that extent, Drogoul's testimony at the sentencing hearing implicates Guadagnini in the BNL-Atlanta scheme on new grounds, however, I do think that further investigation of his knowledge is warranted.

¹⁰⁶ Indeed, Drogoul was repeatedly warned that formal authorization from Rome was mandatory even for loans guaranteed by the U.S. Government (i.e., CCC) and that approved credit lines could not be exceeded.

¹⁰⁷ Because of this "skipping" (or "slippage," as it was sometimes referred to by BNL-Atlanta employees), Drogoul felt comfortable in assuring management that his Fiscal Year 1985 \$100 million CCC authority had never been exceeded:

Total \$93,206,495.61 [CCC for Iraq Rafidain] We wish to point out that these figures have been triple checked by us and that they reflect our outstandings under this facility. The final maturities are accurate. Previous reports, which have required that we reflect manually month by month maturities under each loan, were not accurately reflected. We apologize for this error.
(Ex. 3.)

2. The Investigation and Prosecution of Mr. Drogoul

In the October 5 Order, Judge Shoob also charged that the USAO's failure to investigate seriously whether BNL-Rome knew of Drogoul's activities was "coupled with or provoked by the involvement of other departments of the United States Government [which] indicates an effort to absolve BNL-Rome of complicity in the Atlanta branch loans to Iraq." (October 5 Order at 9-10.) Specifically, Judge Shoob charged that DOJ was steering the USAO's conduct of the case and that, in turn, DOJ was improperly influenced by the Department of State and others. (Id. at 14.)

As set forth above, I have exhaustively reviewed the facts relevant to the suggestion that the DOJ directed the USAO's prosecution, and to the further suggestion that other agencies or branches of the U.S. Government improperly interfered with DOJ and/or the USAO in the conduct of the case. I do not reach the same conclusion. In fairness to Judge Shoob, presumptuous though it may be, I venture to suggest that had he been able to review the same materials, he would conclude as I did. I find Judge Shoob's specific charges against the USAO, and his concern about the interference of other agencies, to be inaccurate. I will address briefly his specific charges, however, which are as follows:

- a. High level officials in the Justice Department and the State Department met with the Italian Ambassador to discuss the case. They appeared to help steer this case and gave support to BNL-Rome's position that it was a victim in this matter, assuring the ambassador that there "would be no surprises" for the Italians.

I have interviewed the people involved in this matter in

the DOJ, the USAO and the Department of State, including a number of high ranking officials.. All unequivocally and consistently stated that no political or improper pressure had been brought to shape this case. Representatives from the USAO have explicitly stated that they felt "absolutely no pressure" to alter their investigation or prosecutive decisions, and that their office was not denied access to the information it needed to conduct a thorough investigation.¹⁰⁸ My investigation has revealed that the only "pressure" placed on the USAO was the DOJ's insistence that the USAO fully investigate all aspects of this case, and that they not foreclose the possibility that BNL-Rome was involved in the Atlanta lending scheme.¹⁰⁹ Therefore, notwithstanding what may have occurred at the upper reaches of the Italian and American governments, I have found that the course of the investigation was not improperly influenced.

- b. The Justice Department cancelled investigators' necessary trip to Italy and Turkey, where they intended to interview bank officials and others with knowledge of the transactions and scheme.

My investigation shows that the Justice Department did not cancel any trips to Italy or Turkey by the investigators.

(1) Turkey: The USAO had planned to go to Turkey in January 1990, to obtain the testimony of Yavuz Teseller pursuant to a plea agreement with his employer, Entrade International, Ltd. It

¹⁰⁸ My own experience teaches me that if the USAO prosecutors had felt any pressure, one or more of the many members of their Task Force would have (a) suspected it and (b) disclosed it.

¹⁰⁹ As explained above, the only "Indictment decision" made by the DOJ was to drop the CBI as a defendant.

was thought that his testimony would provide information about transactions in which BNL-Atlanta engaged. DOJ asked the USAO to delay the trip because it felt that further investigation of the BNL-victim theory was necessary before the trip proceeded. By May 1990, when DOJ ultimately gave permission for the trip, Tezeller had decided to withdraw his offer to cooperate, and the trip became unnecessary.

(2) Italy: According to USAO, the planned trip to Italy became unnecessary because BNL-Rome agreed to bring its representatives and documents to Atlanta.

- c. The Italian ambassador met with then-Attorney General Richard Thornburgh in the Spring of 1990 and told him that incriminating BNL-Rome in these transactions would be tantamount to "a slap in the face" of the Italians and would not be understood by the government in Italy.

As I have noted, I have taken Mr. Thornburgh's sworn testimony. He does not recall such a conversation, but he is firm on the subject that he did not exert any pressure on the DOJ other than to move the case along.

- d. The local prosecutor in this matter received one or more highly unusual and inappropriate telephone calls from the White House Office of Legal Counsel about this, indicating the potential embarrassment level of the case.

Although McKenzie did receive at least one telephone call from Jay Bybee, Associate Counsel in the White House, Bybee has stated that the call was placed solely to gather publicly available information about the status of the BNL investigation that was relevant to the decision whether to extend additional CCC guarantees to Iraq. McKenzie states that this call had no effect

on the investigation, and I have seen no other evidence that this might have been so.

- e. The draft indictment was delayed by the Justice Department from early 1990 until the end of the Gulf War, February 1991 -- almost one year. Also, the plea bargain in which Mr. Drogoul agreed to plead guilty to only 60 counts rather than 347 and initiated by an assistant prosecutor when the chief prosecutor was out of the city effectively silenced Mr. Drogoul who had announced his intention to make a full disclosure at the plea hearing.

Earlier in this Report I set out in detail the month-by-month handling of the BNL matter from August 1989 to July 1991. My investigation shows that the only "delay" occasioned by the Justice Department (or by any other outside Department or Agency) was the delay that resulted from the DOJ's insistence that the USAO conduct a thorough investigation and fully consider the possibility that BNL was in complicity with Drogoul. I also find that the time frame within which the Indictment was brought -- approximately 18 months after the initial search of BNL-Atlanta -- was entirely reasonable considering the complexity of the underlying transactions and the scope of the investigation this case required.

My views as to the fairness and validity of the plea agreement, and manner in which it was reached, are also set forth in this Section, supra.

- f. The Government failed to produce and, apparently, made no effort to bring in any knowledgeable bank official from Rome -- including Pedde, Guadagnini, Monaco, Florio -- for the Sentencing Hearing.

I view this decision as a valid exercise of prosecutorial discretion. This was a sentencing hearing, not a trial, and some

constraints on the scope of the hearing were appropriate.¹¹⁰ Two of these witnesses reside in Italy and are not within the subpoena power of the U.S. court. Had they agreed to appear voluntarily, it is likely they would have done so only at the government's expense. The two witnesses who reside in New York were, of course, available to the defendant, too, had Mr. Cook chosen to call them.

- g. The Government failed to interview Wafai Dajani, despite evidence of his substantial involvement with the scheme, when he was in Atlanta and had agreed to meet with the prosecution. Mr. Dajani, who has ties to the King of Jordan, was not indicted.

I take this charge to suggest that Wafai Dajani, had he been interviewed, would have implicated BNL-Rome in Drogoul's activities. The USAO has been interested in Dajani for some time. Just prior to his repudiation of his plea agreement, Drogoul had begun in his debriefing sessions to report his conversations with Dajani, which suggested some leads to BNL-Rome's knowledge. (Memoranda of Drogoul Interview, August 18 and 20, 1992.) Those debriefing sessions, however, were terminated by Drogoul. This limited information should be pursued, for it could lead to BNL-Rome, Dajani himself, or both. In any event, as I have noted before, the decision not to indict Dajani was based on the insufficiency of the evidence, not on any perceived political or

¹¹⁰ I would have been very troubled by this decision if the proceedings had been a trial on the guilt or innocence of Drogoul. Here, however, he had admitted everything, including that his actions were unauthorized. The USAO did have an obligation to show the Court the details of Drogoul's acts, which they attempted to do through Wade's testimony. The Italian witnesses would have been unable to describe the transactions. Aside from Wade, only Drogoul was in a position to do so.

other ground.

- h. Investigators were blocked by the Department of Agriculture from interviewing Iraqi officials who were in the United States negotiating CCC guaranties and later were prohibited from travelling to Iraq to interview potential co-conspirators and witnesses.

There is no evidence that USDA prevented investigators from interviewing Iraqi officials. In February 1990, Mueller spoke with McKenzie about a USDA proposal that the State Department approach the Iraqi government to allow U.S. government officials to interview Iraqi nationals in connection with the BNL investigation. At that time, USDA was attempting to determine whether to extend further CCC credit guarantees to Iraq, and had launched its own regulatory investigation. The two agencies planned to cooperate in interviewing the witnesses. DOJ wrote to the Department of State proposing that the issuance of CCC credits be conditioned on Iraqi cooperation. McKenzie later expressed concern at this proposed linkage, as well as the wisdom of USDA's plan to provide the Iraqis with a list of their questions in advance. Although USDA representatives went to Baghdad for the interviews, the USAO decided not to pursue the matter. According to McKenzie, the USAO was convinced that the Iraqis would deny complicity but then characterize their meeting with the USAO to be "cooperation" entitling them to the additional \$500 million in credits. The USAO decided that such a tradeoff would not be worthwhile, and on that ground made the decision not to travel to Iraq.

- i. In early 1990, Atlanta prosecutors met with BNL-Rome lawyers, discussing the bank's position as a victim.

I understand this comment to suggest that there was a relationship between the USAO and BNL-Rome that did not allow the USAO to maintain its independence in analyzing the case. After the USAO had begun to pursue the BNL victim theory, the prosecutors reasonably found it important to consult BNL concerning the extent of the harm suffered. This meeting does not reveal any intent on the part of the USAO to absolve BNL-Rome of complicity in the loan scheme, nor did I find any evidence to suggest that the prosecutors otherwise acted inappropriately in their dealings with BNL-Rome.

- j. The American Ambassador to Italy notified the Secretary of State, Justice Department and others in the Fall of 1989 that BNL's management was worried about the prosecution of the case and wanted it raised "to a political level" and to achieve "damage control."

I find it unremarkable that BNL-Rome, which is almost wholly-owned by the Italian Government, would employ whatever diplomatic channels it had available to prevent publicity that could damage its position in the international banking community. It is obvious that any efforts it made to avoid publicity failed profoundly. In any event, as I have now noted several times over, there is no evidence that any political or diplomatic contacts influenced the prosecution of this case.

- k. Matrix Churchill, an Iraqi front company that was a clearinghouse for weapons procurement, was not indicted, although one of its officers was.

This issue is discussed in Section V above. As I noted there, the decision not to indict Matrix Churchill was a reasonable prosecutorial judgment.

- l. The Government has provided no credible explanation

for its failure to indict Wafai Dajani, Matrix Churchill, Enka, and the Central Bank of Iraq.

The decision of the USAO not to indict Wafai Dajani, Matrix Churchill and the Central Bank of Iraq have been discussed in detail above. See Section V, supra. The USAO did not indict Enka, the parent company of Entrade, because there was insufficient evidence. However, once Entrade pleaded guilty and began cooperating, documents and testimony became available through the Entrade plea agreement. Enka came forward and provided witnesses pursuant to a cooperation agreement. At an October 22, 1992, conference in Judge Shoob's chambers, Judge Shoob indicated that his concerns about Enka involvement in the scheme to defraud were satisfied by the explanation offered by Entrade's attorney.

3. Intelligence Agencies and Classified Information

Judge Shoob's October 5 Order, in Parts C and D, raises questions regarding the U.S. Intelligence Community's awareness of BNL-Atlanta's relationship with Iraq. He also asserts that USAO may have been denied access to classified information that could have provided evidence in the case. Judge Shoob's concern appeared to derive from the fact that during the Drogoul sentencing hearing, on September 23, 1992, the USAO presented Judge Shoob with CIA cables. Judge Shoob believed that the cables suggested "that BNL-Rome was aware of Mr. Drogoul's activities and was not a victim of the alleged fraud," (Ex. 25 at 4.) and that the prosecutors may have been "blocked by agencies with political agendas from developing a full picture of the affair." (Ex. 25 at 13.)

Having received the clearances necessary to review

classified information in the course of my investigation, I am not at liberty to disclose in this Report that classified information, even though some of the information may have been publicly disclosed by others. I prepared an unclassified description of the events I am able to discuss, which is set forth as Section X of this Report.

That summary explains that while the channels for dissemination of intelligence information are imperfect, particularly within DOJ, there is no indication that these channels were deliberately blocked to prevent the DOJ or the USAO from reviewing any intelligence information. In fact, Task Force representative Art Wade reviewed classified documents in December 1990 or January 1991, before the Indictment was returned, and those documents had been obtained by DOJ and made available to the USAO before then. Wade reviewed intelligence information again on September 13, 1991, then with U.S. Customs Agent Richard Horton, and McKenzie, Chartash and Wade reviewed cables on April 30, 1992. While some of these intelligence reports do discuss whether "BNL-Rome knew," the USAO representatives did not find them convincing, and I am convinced that the USAO made its prosecutive decisions wholly independent of the contents of this intelligence.¹¹¹

Judge Shoob appears to suggest that intelligence community awareness of BNL-Atlanta's commercial relationship with

¹¹¹ The DOJ was championing the view that BNL might not be a victim when it received the cables. Presumably it would have been eager to share the intelligence information with the USAO had the information tended to show BNL complicity.

Iraq is surprising. However, the Middle East Economic Digest article demonstrates that in banking circles, at least, BNL-Atlanta was well-known for its transactions with Iraq under the CCC guarantee program. In any event, I do not see why this awareness is relevant to the prosecution of Drogoul.

Having had the opportunity to review a vast amount of material related to the Drogoul presentation, I find no evidence that the USAO sought to provide a "sanitized" version of the facts. The USAO's sentencing hearing at that hearing accords with the evidence as I know it; Drogoul's statements do not. Moreover, as set forth above, any suggestion that the Drogoul prosecution was steered by the DOJ or any other agency is unfounded.

4. Assessment of Drogoul

In concluding my examination of Judge Shoob's charges against the USAO and the DOJ, I think it appropriate to provide my assessment of Drogoul. Obviously his credibility is a critical element in evaluating whether the USAO and the DOJ proceeded properly in this matter, and in the future as a witness.

Drogoul's credibility is vulnerable. Von Wedel, who knew him best, confirms this. In his dozens of debriefings, Drogoul contradicted himself repeatedly and freely admitted that he repeatedly lied his way out of situations where the truth would have revealed his scheme: to the Iraqis, to Von Wedel, to the BNL auditors, to Peat Marwick, to BNL branch managers, to Sardelli, to Guadagnini, to Monaco, to his lawyers, to debriefing agents, to the USAO, and to the Court. Thus, in the discussion that follows, I do

not suggest, in contrasting his statements and positions at one time with those at another time, where the truth is to be found.

The record is replete with Drogoul's admissions that, during the period of the scheme at issue, he lied to BNL personnel in Europe, the Regional Office in New York, and in his own branch as to what he was doing. There were numerous audits in 1986-1989 by BNL internal auditors, governmental auditors from the Federal Reserve, General Accounting Office and the State of Georgia, and "external" auditors from Peat Marwick. Drogoul fooled them all at each point when he was about to be caught in his scheme.

When the house of cards collapsed on August 4, 1989, Drogoul, who was in Paris at the time, did not return directly to Atlanta as he persuaded Judge Shoob to believe. He went to London, to an emergency meeting with high-ranking Iraqis, to discuss what course he should take. They met, and Drogoul was directed to return to Atlanta.

Immediately upon his return, he agreed to meet with prosecutors, investigators, auditors and BNL and Bank of Italy officials. Among his answers to their questions were the following:

- He had returned to Atlanta of his own free will, uninfluenced by the Iraqis.
- The Iraqis did not know the loans were unauthorized; they believed they were approved by Rome.
- The MTLs were unauthorized and unapproved by Rome.
- He, Drogoul, had not been bribed nor had he taken any pay-offs, but Von Wedel had.

Later he was to state:

- He had gone to London to determine what the Iraqis wanted him to do.
- The Iraqis knew the MTLs were not authorized. He had told them that directly and also through Dajani. They had manipulated him into returning to Atlanta so that the MTL loan agreements could be drawn upon (the last one, MTL-4, for \$1.155 billion had just been agreed to in April 1989 on behalf of BNL by Drogoul).
- Drogoul had been bribed.

Similarly, Drogoul claimed during a press interview in late March or early April of 1992, that BNL-Rome knew the "gist" of his activities at BNL-Atlanta. This interview was reported in Il Manifesto, an Italian publication. While acknowledging that Monaco "was aware of almost everything [BNL-Atlanta was] doing," Drogoul contended that Sartoretti, Croff, and others whom he declined to name, also knew.

Additionally, Drogoul stated that if BNL-Atlanta had been provided with "just a little more time," the transactions would have been approved by BNL-Rome and put on the books. According to Drogoul, the purpose of the "grey books" was not to deceive BNL-Rome, but to defend Drogoul and others at BNL-Atlanta against Sardelli, BNL-Atlanta's Manager of North America. When Pedde visited the U.S. in October, 1988, Drogoul allegedly told him to get Sardelli "off [his] back." Sardelli left BNL shortly thereafter.

Yet, two months later, in June of 1992, Drogoul pleaded guilty to 60 counts of an Indictment premised on the theory that BNL-Rome was a victim, and stated before the Court that he did not

think his superiors knew of his "off book" activities.

The only element of the early recitation that did not change in the many debriefings in 1989, his 122-page statement of September 1989 he gave to his lawyers, his conferences with his attorneys, his statements to the Court when he pleaded guilty to defrauding BNL by his "unauthorized" activities, and in his numerous debriefing sessions following entry of his guilty plea, was that his "off book" or "grey book" activities had not been authorized by his superiors.

How do I account for his decision to change course? I can only speculate. His attempt to explain away his earlier statements by claiming that the government had pressured him to say his activity was unauthorized is utter nonsense to anyone who has read all of the debriefing memoranda, as I have. Does he contend that the government, at an early debriefing, pressured him to say he told the Iraqis the MTLs were unauthorized? Does he contend that the government was pressuring him when he composed his 122-page statement for his lawyers, or when he sat with Williams & Connolly, or when in open Court on June 2, 1992, he pleaded guilty to unauthorized activity? Finally, having sat for well over twenty days of debriefing -- with his attorney, Sheila Tyler and/or her investigator present -- does he contend that they sat quietly while the government told him what to say?

VIII. ALLEGATIONS LODGED BY CONGRESS AND THE PRESS

Legislators and the press have lodged various charges against the DOJ and the USAO for conduct indirectly related to the BNL matter. My treatment of them is set forth below. Excluded from the discussion which follows is the subject of the handling of intelligence information, a subject treated at the close of this Report.

A. Allegations of Improprieties Inside the Justice Department

1. Improprieties In Response To The Gonzales Committee Subpoena Requests

Representative Gonzalez has alleged that "[a]t the request of the [DOJ] the Federal Reserve withheld hundreds of BNL-related documents" from the Gonzalez Committee. (Testimony of Rep. Gonzalez before the Gonzalez Committee on the Judiciary, June 2, 1992, at 27.) Representative Gonzalez also alleged that after his own Committee "was forced to subpoena the documents, the Federal Reserve, at the insistence of the Justice Department, redacted in whole or in part over 80 of these documents." (Id.) According to Chairman Gonzalez, "[t]he unredacted versions clearly showed that the Justice Department was seeking to thwart the committee's investigation or to withhold information embarrassing to the administration." (Id.) In my review of the materials, I have found nothing that indicates that the DOJ acted improperly in giving advice as the Federal Reserve decided whether to redact or withhold certain documents before turning them over to the Gonzalez

Committee.¹¹²

On October 3, 1990, Chairman Gonzalez requested that the Federal Reserve produce to his Committee documents relating to BNL. Two days later, Urgenson prepared a memorandum confirming his telephone conversation with Virgil Mattingly ("Mattingly") of the Federal Reserve, in which he told Mattingly that DOJ "could not advise him to withhold production of the documents." Urgenson made it clear to Mattingly that while "the request may be unduly oppressive and burdensome in light of the number of documents sought and the short time for production [the] decision on compliance should be made on advi[c]e of Federal Reserve Counsel." Mattingly responded that the Federal Reserve did not intend to produce the documents on Friday, and that he did not want to take any steps that would interfere with the [DOJ] Investigation. Urgenson then said that any advice DOJ gave "regarding production would have to be made after review of the request and would concern specific items."

It appears that Urgenson and Mattingly spoke again on October 10, 1990. Mattingly advised that he had proposed providing the Committee with copies of the Federal Reserve examination report after deleting references to the criminal investigation. Mattingly asked that a Fraud Section attorney review the report and other

¹¹² Chairman Gonzalez refers specifically to four redacted documents that apparently demonstrate the impropriety of DOJ's conduct or advice.

documents that were covered by the Committee's request. Pursuant to Urgenson's request, Clark arranged to meet with Mattingly in order to review the documents.

Following Clark's review, on October 15, 1990, Urgenson wrote to Mattingly and listed the 25 examination reports that contained information responsive to Gonzalez's request. The Federal Reserve proposed to release redacted copies of eight of the reports to the Committee. Urgenson suggested that revisions be made to the proposed Federal Reserve redactions, and all but one of the revisions involved re-insertions of material that the Federal Reserve had omitted. Urgenson noted that:

[Y]our files contain other materials responsive to the October 3, 1990 request of the Committee. These include contemporaneous notes or reports prepared by Federal Reserve examiners who are assisting in the criminal investigation. While disclosure of those materials at this time would interfere with the conduct of the criminal investigation, we have agreed that your response to the Committee will clearly refer to the existence of such materials. If possible, we would appreciate receiving a copy of the text of your proposed response to the Committee.

On October 23, 1990, the members of the Gonzalez Committee met to approve a subpoena for documents relating to the BNL matter to be served on, among others, the Federal Reserve Board of Foreigners and the Federal Reserve Banks of Atlanta, Los Angeles, New York and Chicago.¹¹³ That same day, according to a memorandum prepared by Clark, Mattingly spoke with Clark and

¹¹³ The two initial sets of subpoenas were issued in November and December of 1990.

explained that the Federal Reserve had "no experience in dealing with Congressional subpoenas." Mattingly asked Clark "if there was anyone at DOJ knowledgeable in the area with whom he could discuss the procedure and principles involved."

The next day, October 24, representatives from DOJ, Eximbank, Department of Commerce, FBI, United States Customs Service, Department of Treasury, OLC, Federal Reserve and the Department of Agriculture met at the Office of Legislative Affairs regarding the aforesaid subpoenas.¹¹⁴ At the meeting Tom Reinhardt (OLA) circulated a document he had prepared entitled "Draft Procedures for Processing Documents."

On October 25, 1990, Urgenson wrote to Reinhardt expressing DOJ's "principal concern" with the draft procedures. Urgenson stated that "implementation [of the procedures] would appear to place [DOJ] squarely between the Committee and the various departments and agencies whose information is sought by that Committee." Urgenson stated, in unambiguous terms:

Our interest in the proceedings before the Committee is limited solely to legitimate concern of whether information concerning the criminal investigation being conducted by the U.S. Attorney's Office in Atlanta -- and potentially harmful to the successful prosecution of charges arising from that investigation -- will be disclosed. To this end, we should seek to review and make recommendations concerning only those materials which the requested parties believe contain information the disclosure of which

¹¹⁴ On October 23, 1992, the Gonzalez Committee had also met to approve subpoenas for Commerce, Treasury, Customs, Export-Import Bank, and Agriculture.

could affect the criminal process, leaving each agency to determine for itself whether to withhold proprietary or deliberative materials.

The next day, October 26, Urgenson wrote to Rukstale and McKenzie in the USAO, requesting that they draft a memorandum to the various interested agencies discussing the types of materials which should be redacted. In response, Rukstale offered the suggestion that the originals be maintained and that "material which might otherwise reveal information concerning conduct of the criminal investigation" not be disclosed, including grand jury material. Lastly, Rukstale recommended that "committee requests for explanations . . . should be avoided."

During the next several weeks, Clark, along with the Atlanta prosecutors, reviewed Federal Reserve documents to determine which documents, or portions thereof, would, if disclosed, adversely affect the BNL prosecution. He also suggested certain redactions. On November 21, 1990, McKenzie wrote to Clark listing reasons for redacting or withholding specific Federal Reserve documents, including: witness safety, witness harassment, intimidation and obstruction, discouraging witness cooperation, revealing trial strategy, revealing attorney work product, violating understandings of confidentiality, encouraging subjects to flee, protecting material under seal pursuant to Court Order, and the ban on disclosure of plea negotiations.

On February 28, 1991, the Indictment was returned. Accordingly, Clark informed Urgenson that the redacted materials which had previously been provided to the Gonzales Committee would

have to be reevaluated to determine what could be released now that the Indictment had been returned. Clark stated "that it would be necessary for [McKenzie] to review the material again--on a line by line basis--and make absolutely certain that she was on strong ground for denying this material to the Committee." Clark followed this up with a letter to Brill dated March 13, 1991, in which he encouraged that the materials be reviewed with the objective of releasing as much of the information as possible to the Committee.

On March 27, 1991, Clark confirmed the DOJ's position on redactions in a memorandum to Urgenson which provided as follows:

As you know, when we asked the Federal Reserve to make redactions in the materials requested by Chairman Gonzalez, it was for the sole purpose of protecting the U.S. Attorney's investigation from premature disclosure of information -- not to protect anyone from embarrass[ment]. Furthermore, following the indictment, we asked the U.S. Attorney's office to review all redacted materials to determine to what extent more of the material may be released to the Congress. We have not -- and should not -- assert interference with the criminal prosecution as the basis for redacting any records prepared by an agency as a result of the normal operation of its programs.

On April 9, 1991, McKenzie confirmed that certain previously redacted portions of the Federal Reserve documents, such as certain references to a previously sealed search warrant, could be disclosed to the Gonzalez Committee. She identified additional Federal Reserve documents, or portions thereof, which could now be released without impeding the ongoing criminal prosecution. On April 17, 1991, McKenzie disclosed additional portions of documents.

On May 17, 1991, DOJ's W. Lee Rawls (OLA) wrote to Chairman Gonzalez stating that DOJ would now offer to his Committee the opportunity to review on a confidential, no-notes basis, unredacted versions of certain documents that previously had been provided to the Committee in redacted form.

Chairman Greenspan wrote to Chairman Gonzalez on July 26, 1991, regarding subpoenas that had been issued by the Gonzalez Committee on May 17, 1991. Chairman Greenspan explained that many of the requested documents already had been provided to the Gonzalez Committee in redacted form and that nearly all of the redacted information had been withheld at the request of DOJ, because it perceived that premature disclosure of certain information would harm the prosecution. In light of the outstanding subpoenas, however, the Board of Governors transmitted to the Committee the unredacted copies of the documents identified in the subpoenas.

It is clear from a review of this sequence of events that the DOJ's recommendations to the Federal Reserve regarding the redaction or withholding of documents was not motivated by an effort to "thwart the committee's investigation or to withhold information embarrassing to the administration," as Chairman Gonzalez had alleged. DOJ representatives were invited into the process -- the subpoena, after all, was directed to the Federal Reserve -- to protect the integrity of an ongoing, very high profile prosecution. As Urgenson asserted, the DOJ was concerned "only [with] those materials. . .the disclosure of which could

affect the criminal process. . . ."

Early on, Urgenson clearly indicated that the Federal Reserve would have to notify the Gonzalez Committee that certain documents were being withheld to protect the prosecution efforts. The efforts of the DOJ in this regard are perhaps best illustrated by Clark's statement that the USAO would have to reevaluate all the documents following the Indictment "on a line by line basis [to] make absolutely certain that [there is] strong grounds for denying this material to the Committee."

Clark also expressly stated in an inter-office memorandum that "we asked the Federal Reserve to make redactions . . . for the sole purpose of protecting the U.S. Attorney's investigation from premature disclosure of information, not to protect anyone from embarrass[s]ment." The approach of the DOJ is also evidenced by the review process, which was repeated at various stages, and which culminated in Chairman Greenspan's release of all previously redacted documents.

Notwithstanding the foregoing, it should be noted that on October 2, 1990, over one month before any of the document subpoenas were issued, Reinhardt wrote to Maloney and Richard to update them on Chairman Gonzalez' requests for the production of documents and witnesses in a hearing before his Committee.¹¹⁵ The

¹¹⁵ The requests were directed at several agencies, including the Comptroller of the Currency, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Agricultural Commodity Credit Corporation.

memorandum notes that:

My fears of Gonzalez trying to put this together while keeping us in the dark, seem to be materializing. If you want me to get an Administration position on no information on BNL, then I have to get moving on it. We can do it either by calling together the players and trying to reach agreement amongst ourselves, or kicking it up to OMB and then give instructions to the other agencies involved. Although it is a pain in the neck to do, my choice is to bring in the agencies and reach an agreement with them.

Rawls and Attorney Paul Colborn received copies of the memorandum.

Thereafter, on October 4, 1990, Maloney informed Mueller that "Director Sessions is to attempt to see Gonzalez either this afternoon or tomorrow morning. Failing to persuade Gonzalez will necessitate a call on handling of the subpoena requests." (E-Mail from Maloney to Mueller, dated October 4, 1990.) The person to be called is not identified. In addition, the message further notes that "if subpoenas are issued, this case may provide the vehicle to litigate executive privilege issues in the context of a request for info concerning an ongoing criminal investigation by Congress."

The concerns of the DOJ attorneys and the USAO reflect their need to protect the ongoing criminal prosecution, those concerns are valid. To the extent their comments indicate that they were apprehensive about the political ramifications of the subpoenas, I have found no evidence that they acted on those apprehensions or on any other improper basis in responding to the subpoenas. Moreover, the Federal Reserve, which the DOJ advised, ultimately fully complied with the subpoenas.

Accordingly, there is no basis for further investigation

into this matter. I find clear and convincing evidence that the above-discussed acts were undertaken by the DOJ to protect the ongoing BNL investigation and prosecution, not to block Representative Gonzalez's investigation. The DOJ and the USAO were obligated by legal constraints to review the Federal Reserve documents and withhold or redact those which would jeopardize the investigation or expose Grand Jury material. It cannot be true, as some have implicitly suggested, that the DOJ and the USAO were subject to criminal culpability unless they made a full and complete disclosure to the Gonzalez Committee at the risk of violating their obligation under other laws.

2. Interference With Italian Investigation

The Italian Parliamentary Committee issued a preliminary "Final Report" concerning its investigation into the BNL matter in the early part of 1992.¹¹⁶ That Preliminary Report, at page 20, alleged that the Italian Committee was prevented from interviewing Drogoul and others "especially because of the continuously hostile position on such contacts taken by the United States Attorney in Atlanta in conformity with Justice Department policy."¹¹⁷ Some have charged that this position was part of a broader "coverup."

A review of the material made available to me does not suggest that either the USAO or the DOJ interfered with the Italian Committee's investigation, let alone that a cover up existed. To

¹¹⁶ The exact date of this Preliminary Report is not reflected on the document.

¹¹⁷ These comments did not appear in the Final Report issued on April 22, 1992. (See Ex. 20.)

the contrary, attorneys for both the USAO and the DOJ made themselves available to representatives from the Italian Committee on several occasions.

For example, on September 21, 1990, Daniel Lippman (OIA), Rex Young (OIA), Urgenson, McKenzie, and Wade met with representatives from the Italian Committee to discuss the BNL matter. On October 3, 1990, another meeting was held between DOJ attorneys and Italian representatives. A third meeting with representatives from the Italian delegation took place on January 3, 1991. USAO and DOJ representatives attended the January 3 meeting, as well as McKenzie and Wade. Also present was Robert Kennedy, Senior Examiner of the Federal Reserve Bank of Atlanta. Two other meetings with DOJ representatives and Italian Committee representatives took place on March 19, 1991, and July 19, 1991.¹¹⁸

It appears that the comments of the Italian Committee in its Report stem from its difficulty in arranging voluntary interviews with witnesses in the United States. Contrary to the Italian Committee's perception, however, neither the USAO nor the DOJ prevented anyone from speaking with the Italian Committee, notwithstanding concerns that the interviews could adversely impact upon the USAO's prosecution. The relevant documents accurately

¹¹⁸ Other meetings were held with the Italian prosecutors. For example, in mid-March of 1990, the USAO's McKenzie and Alexander and members of the USAO's investigative team met with Montaldi, the Assistant Prosecutor of the Italian Republic. On April 8, 1991, Brill and McKenzie wrote to Montaldi explaining the Fed. R. Crim. P. 6(e) prohibition on the release of either Grand Jury documents or testimony.

reflect the positions of the DOJ and the USAO.

On May 29, 1991, DOJ's Drew Arena (OIA) sent a memorandum to Clark of the Fraud Section concerning proposed voluntary interviews of witnesses by Zanelli, Counsel to the Italian Committee. Through the Italian Consulate in New York, Zanelli had invited a number of witnesses to speak informally with him and other representatives from the Committee. Attached to Arena's memorandum was a three-page list of interviews scheduled for the weeks of June 3, and June 10, 1991. In another memorandum written on May 29, Arena notified Richard, also of DOJ's Fraud Section, of the proposed voluntary interviews scheduled by Zanelli, stating that Zanelli was uncertain which witnesses have agreed to be interviewed.

The next day, May 30, 1991, McKenzie wrote to Laura J. Barsella (OIA) stating that Zanelli's proposed interviews could adversely impact the USAO's prosecution of the BNL matter. In a telephone conversation with Barsella that same day, McKenzie stated that she objected to Zanelli's proposed interviews because she was concerned about an "Ollie North problem," whereby BNL targets could later claim that the Italian Committee had given them immunity from prosecution. McKenzie also stated that she had no objection to Zanelli interviewing present BNL employees since they are, in effect, employees of the Italian Government. (Memorandum from Barsella to File, dated May 30, 1991.)

When McKenzie and Clark spoke about the interviews, it was agreed that Zanelli should be provided with a letter to be

given to the proposed witnesses that would make it clear that the Italian Committee could not confer immunity. (Id.) This procedure was confirmed in a May 30, 1991, memorandum from Urgenson to Arena. In his memorandum, Urgenson suggested that Zanelli be furnished with a letter to be given to each of the witnesses stating that DOJ had received notice of the requested interviews, that it understands the interviews to be voluntary, that no immunity is to be conferred upon the witness under Italian law, that no immunity from United States prosecution should be implied, and that, if compelled by Court order, the United States prosecutors would produce memoranda of the interviews.

On May 31, 1991, DOJ's Maloney wrote to Zanelli expressing DOJ's concerns that the interviews would adversely impact the USAO's prosecution. Maloney requested that Zanelli delay the interviews until the USAO's prosecution was completed. Maloney, however, went on to state that if Zanelli did proceed with the interviews, Zanelli should clearly inform each witness that the Italian investigation is unrelated to the USAO prosecution and that their cooperation with the Italian investigation should not be considered as any type of immunity from prosecution. Maloney also asked for copies of any promises made to witnesses by the Italian Committee.

On May 31, the day Maloney's letter was sent to Zanelli, Zanelli called Barsella and stated that by conducting voluntary interviews he was only doing what he could to conduct his investigation. He also stated that while he was willing to hear

McKenzie's concerns, he must talk to witnesses who were willing to talk to him. Zanelli added that if certain witnesses did not want to speak with him, he would have to "take the next step, which may involve asking for help under treaties and statutes."

On June 2, 1991, Barsella and Zanelli spoke by telephone once again. The purpose of the call, according to a memorandum prepared by Barsella, was to make DOJ's position on the interviews "known" to Zanelli. Barsella explained that, under the United States system, interviews of witnesses are usually limited because "when witnesses are interviewed it is often the case that the defendant and his attorney [will have] access to the reports of the interviews. The more times someone is interviewed, the more reports are generated, and the more material the defense may have to work with." Barsella noted that it was for this reason that DOJ had requested the U.S. Congressional committees to postpone their interviews. Barsella also raised the immunity concerns for Zanelli, specifically referencing the North decision as "another reason we have asked Congress to postpone its interviews of . . . witnesses of potential defendants."

Having said all this, Barsella asked Zanelli to postpone his interviews. Barsella made it clear, however, that if Zanelli "felt he must proceed with voluntary interviews of witnesses there was very little we could do . . . [although] we are not in a position to assist him in his interviews." Barsella then went on to make the same three requests made by Maloney in his letter of May 31 in the event Zanelli elected to go forward with the

interviews: (1) make it clear to each witness that the Italian investigation is not related to the U.S. prosecution; (2) make it clear to each witness that cooperation with the Italian investigation cannot be construed as giving the witness any type of immunity from prosecution; and (3) provide DOJ with copies of any promise made by the Italians to any witness.

Zanelli told Barsella that "he had no problem at all in abiding by" the first two requests. Zanelli raised concerns, however, with protecting plea bargains entered into under the Italian law.

On June 3, 1991, Barsella and Zanelli spoke once again by telephone. In her memorandum of that conversation, Barsella notes that Zanelli indicated that while "most of the Italian witnesses [BNL employees and other people in the Italian Banking community] said that they would probably come to be interviewed . . . most American witnesses have indicated that they probably won't come."

During a subsequent conversation between Barsella and Ettore Laurenzano (a colleague of Zanelli's), it was confirmed that the Italian Committee had informed all witnesses, who had thus far been interviewed, that the Italian Committee investigation was not in any way related to the U.S. prosecution and that their cooperation with the Italian Committee cannot be construed as immunity for the witnesses. This was all confirmed in a June 5, 1991, letter from Zanelli to Maloney.

On June 7, 1991, Clark sent a memo to Urgenson noting that "interviews are being conducted in New York by Professor

Zanelli" and that Barsella "has not heard of any further difficulties or problems with the interviews."

According to a memorandum prepared by Barsella, Zanelli and Barsella, during the July 19, 1991, meeting at DOJ, again discussed the interview situation. Zanelli stated that some members of the Italian Parliament would blame the United States Government for the failure of some witnesses to voluntarily come forth for interviews. Zanelli also reiterated what he had told Barsella on May 31 that he may resort to a formal treaty request to gain access to the witnesses. After some discussion with Barsella, Zanelli said that he understood that his preliminary investigation may not qualify for assistance under the treaty, but that he felt obliged to make the request in any event.

On July 25, 1991, apparently having been prompted by a letter from Zanelli suggesting otherwise, McKenzie informed Arena that she had "told all witnesses and/or their lawyers that they were free to talk with whomever they want and they are free not to talk, if they don't want to."

On August 2, 1992, Maloney wrote to Zanelli stating, in part, that Barsella had informed him (Maloney) of Zanelli's "disappointment that certain potential witnesses in the BNL matter did not accept [Zanelli's] invitation" to be interviewed. Maloney "assured" Zanelli "that any decisions by these witnesses not to be interviewed were their own." Maloney went on to state that the "Justice Department cannot instruct any witness to speak, or not to speak with a third party. That is a decision that witnesses must

make on their own, with the advice of their attorneys." Maloney invited Zanelli to contact McKenzie to get a listing of attorneys representing witnesses "to discuss [with them] the possibility of questioning" their clients. Maloney also noted that he understood that Zanelli contemplated filing a treaty request to seek assistance in compelling the appearance of witnesses at interviews. Maloney stated that "[i]n all likelihood, a request from your investigative commission could not be entertained under the treaty." Maloney also reminded Zanelli that DOJ "remains willing to assist your investigation to the extent such assistance is authorized by United States law."

On August 23, 1991, Zanelli wrote to Maloney acknowledging his August 2 letter and stating that he (Zanelli) had a list of attorneys and their clients whom the Italian Committee might be interested in contacting. Zanelli informed Maloney that he would "check the list" with McKenzie. Zanelli also confirmed "the understanding that any potential witness would be clearly advised of the nature of our investigation as unrelated to the activities of [DOJ] and not conducive to any sort of consideration of immunity."

During the next few months, McKenzie and Zanelli corresponded and McKenzie supplied Zanelli information concerning certain documents. In a letter dated December 18, 1991, McKenzie offered to discuss any concern Zanelli may have with respect to access to documents.

In response to a treaty request, certain materials were

sent to the Italian Committee on February 13, 1992, under cover of letter from Barsella. Grand Jury material was not sent, and Barsella stated that to the extent Grand Jury material is disclosed during the trial "it will then become accessible." Subsequently, Clark and Maloney exchanged E-Mail, commenting that the preliminary Italian Senate Report was "off base" in its allegations that United States prosecutors interfered with the Italian investigation.

Finally, on March 4, 1992, Arena wrote to Egredo Dott Palmieri returning the treaty request, noting that "the Mutual Legal Assistance Treaty in Force between our two countries was never intended to be used on behalf of, and we will not grant assistance under the treaty for use by, legislative bodies." Arena further stated:

Although the Department of Justice has no obligation under the treaty to render assistance to the parliamentary commission, members of the Department have met with the special counsel for the commission, Professor Enrico Zanelli, on a number of occasions over the last year, including a meeting in October attended by Deputy Assistant Attorney General Paul Maloney, Professor Zanelli, and several senators who are members of the Parliamentary Commission. All members of the Department have continuously expressed to the commission their willingness to assist the commission's work in whatever way they can without jeopardizing the criminal case that is currently pending in Atlanta. Indeed, over the last year, Prof. Zanelli has regularly asked the prosecutor in Atlanta for assistance regarding documents and transactions that have been examined in the course of the Atlanta investigation. On every occasion, the prosecutor attempted to provide Prof. Zanelli with the requested information within the constraints of our laws, such as the law that imposes secrecy upon information by a grand jury.

Based upon this background, there is no reasonable basis to conclude that either DOJ or the USAO interfered with the Italians' access to witnesses or documents. While concern was expressed with the interviews Zanelli was proposing, DOJ representatives repeatedly made it clear that they could not stop Zanelli from proceeding. The DOJ requested certain procedures to protect the USAO's prosecution, which Zanelli, for the most part, agreed to. In addition, the names of the attorneys representing defendants and witnesses were offered to Zanelli so that he could contact them to try to arrange interviews. Lastly, even though the Italian treaty request was ultimately rejected as without basis, documents were still provided to the Italian Committee.

I conclude that there are no reasonable grounds to conduct a further investigation in this matter. The USAO cooperated with the Italians beyond what was required of them. There is no suggestion of criminal activity in this behavior.

3. The Alleged DOJ Shredding Incident

On November 6, 1992, I received a letter, via facsimile, from Bobby Lee Cook, former counsel for Drogoul, informing me of a possible incident of BNL document shredding at the "Security Division" of DOJ. Cook had received a telephone call from Robert Fricker ("Fricker") of the ABA Journal. Apparently Fricker heard from a fellow journalist, who allegedly had been contacted by a DOJ employee, that individuals in the "Security Division" were shredding BNL documents.

In response to this information I immediately asked the

FBI to interview Fricker. That same day, November 6, an FBI agent located Fricker in the passenger lobby of the San Antonio International Airport during a layover on his flight from Chicago to Monterrey, Mexico. At that time, Fricker agreed to be interviewed there. Although he refused to identify his source, Fricker explained that on a scale of one to ten, the veracity of his source of information was a "five." Fricker has still been unable to further verify this information, as of the most recent FBI contact with him. Additional FBI investigation into the matter has indicated that there was no truth to this report.

In light of the foregoing I see no need to further investigate this issue. I have returned the FBI's memorandum of interviews and other documentation.

**B. Allegations of Improprieties
Outside the Justice Department**

1. Alleged Department Of Commerce Improprieties

On October 30, 1992, I received a letter from Senator Donald W. Riegle, Jr., Chairman, United States Senate Committee on Banking, Housing, and Urban Affairs, requesting that I recommend the appointment of a "statutory Independent Counsel to investigate and prosecute possible violations of law," by the Department of Commerce and its Under Secretary for Export Administration, Dennis Kloske. (Letter from Sen. Riegle to Frederick B. Lacey, dated October 30, 1992.) These allegations concern the alleged alteration of copies of export license documents provided to the Commerce, Consumer and Monetary Affairs Subcommittee of the House

Committee on Government Operations (the "Barnard Subcommittee") in response to an October 1990 request by Representative Doug Barnard, Jr., Chairman, for information on the licensing of exports of dual use goods to Iraq.

In responding to Representative Barnard, persons in the Commerce Department under the direction of Kloske obtained a computer printout from the Commerce Department's database system. The printout contained entries for export licenses which described the products involved as "military vehicles" or "vehicles designed for military use." Before the printout was sent to the Barnard Subcommittee, Kloske ordered the description of the trucks to be altered, deleting the word "military" from the description and changing the entries to read "commercial utility cargo trucks," "commercial utility cargo vehicles" or "vehicles."

As a result of the Barnard Subcommittee investigation into these alterations, and the surrounding publicity, the Commerce Department's General Counsel requested that the Commerce Department's Inspector General review the matter. On June 4, 1991, the Inspector General issued his report, stating that information on 68 export licenses had been altered. The report noted that, in several instances, the alterations were "unjustified and misleading." (Commerce Inspector General's Report, dated June 4, 1991.)

On June 25, 1992, Kloske submitted a written statement to the House Judiciary Committee in which he stated that he changed the description of the trucks "to provide Congress with a more

accurate description of the vehicles and to make clear that the Department of Commerce was not exceeding its jurisdiction by licensing the export of combat vehicles." (See Report of the Attorney General to the House Committee on the Judiciary, dated August 10, 1992, at 28.) Numerous witnesses, however, have questioned Kloske's alteration of the truck descriptions. (Id.)

The FBI has delivered to me the various reports of witness interviews and I have examined the file in this matter. While there are some inconsistencies in the witnesses' statements, they generally support Kloske's version of events and his stated reasons for changing the descriptions.

However, additional material from Senator Riegle has come to my attention which, in my opinion, warrants further investigation into this matter. In his November 25, 1992, letter to me, Senator Riegle states:

16 months have now passed since the Justice Department began to review a formal request by House Subcommittee Chairman Barnard to pursue apparent criminal activity regarding the Commerce Department's export licensing practices regarding Iraq.

As mentioned in my previous letter, certain export licenses of sensitive materials to Iraq were later altered by the Commerce Department and then formally submitted to Congress in a falsified form.

The Inspector General at the Commerce Department has already determined that certain of those document alterations were unjustified. With these facts now known it seems to me that at least three specific criminal statutes appear to have been violated.

After discussing the background of Kloske's changes to the truck description, Senator Riegle next refers to another document formally submitted to Congress by the Commerce Department "in a falsified form."

I have enclosed one such document alteration so it is clear what took place. In this instance, Commerce Department officials deleted the words: "According to our information the end-user is involved in military matters." This deliberate and willful deletion concealed from the Congress the fact this shipment was made to a military end-user in Iraq.

(Id.)

The document referred to in the foregoing quotation deals with a shipment of equipment from the Hewlett-Packard Company to the Salam Al Din Establishment. The original version of the document provides:

ECCM-1531-FREQ.SYNTHESIZERS & EQUIP.
CONTAINING (SPECIF.) ENDUSE: ACCORDING TO OUR
INFORMATION THE END-USER IS INVOLVED IN
MILITARY MATTERS. ENDUSE INFORMATION: THE
ORDERED PRODUCTS WILL BE USED IN CALIBRATING,
ADJUSTING AND TESTING ON A SURVEILLANCE RADAR
SUPPLIED BY THOMSON.

In the version submitted to Congress, the Commerce Department deleted the words "according to our information the end-use is involved in military matters," so that the document appeared as follows:

ECCM-1531-FREQ.SYNTHESIZERS & EQUIP.
CONTAINING (SPECIF.) ENDUSE: THE ORDERED
PRODUCTS WILL BE USED IN CALIBRATING,
ADJUSTING AND TESTING ON A SURVEILLANCE RADAR
SUPPLIED BY THOMSON.

Senator Riegle also enclosed a copy of a memorandum from Iain S. Baird to John Young (cc: Robert Kugelman and Jack Floyd),

dated March 22, 1991. The memorandum notes:

During the recent "crash" project in producing a "sanitized" copy of the Iraqi license printouts, a member of your staff was instrumental in assisting OEL in completing this task: [He] worked long after the end of his work day to assist my staff in producing the necessary information. . . . [His] efforts made it possible for us to meet the time frame requested by Under Secretary Kloske

Upon receipt of Senator Riegle's November 25 letter, I immediately requested interviews or reinterviews of Baird, Young, Kugelman and Floyd. Although Kloske is no longer with the Department of Commerce, I asked the FBI to reinterview him regarding the alteration to the Hewlett-Packard export license. On December 3 and 4, 1992, the FBI reinterviewed Baird and Young and interviewed Floyd and Kingham Khavongsa, a Department of Commerce computer specialist. The FBI has attempted, on numerous occasions, to contact Kloske but has been unable to do so. A final unsuccessful attempt was made on December 7, 1992.

I have reviewed the FBI's records of these interviews and note that Baird and Floyd explain that the Department of Commerce's Export Regulations, covering proprietary business information, prohibit the release of exporter and consignee identifications. Whether the removal of the phrase "according to our information the end-user is involved in military matters" is an appropriate deletion is an issue which must be resolved.

Since it is now clear that Kloske's alteration was not the only alteration in the printout before it went to the Barnard Subcommittee, and in light of the Baird memorandum, I cannot say,

on this information, that I have clear and convincing evidence that no improper motive existed. I believe that further investigation into this matter is necessary.

2. Alleged Shredding Of BNL-Related Documents At USDA

Following my appointment as Independent Counsel, I learned of allegations that documents relating to the involvement of the USDA in the CCC guaranteed loan program to Iraq were being shredded by USDA employees. I immediately called the FBI and learned that Director Sessions already had agents investigating the matter. I have reviewed the reports of the FBI's investigation, and it appears that the documents which were shredded were unrelated to the BNL investigation; indeed, there does not appear to be any violation of federal law.

This matter is accurately summarized in a November 28, 1992 memorandum prepared by the FBI Special Agent who conducted the investigation. I will draw from that memorandum in the following section.

On October 27, 1992, the Inspector General's Office and Secretary of Agriculture of the USDA was notified of three separate inquiries from Congressional committees into the alleged destruction of documents by Dr. Sarita Schotta, Deputy Administrator, Agricultural Stabilization and Conservation Service (the "Conservation Service"), and her staff.

From October 27 to 29, 1992, Special Agents of the Inspector General conducted interviews of USDA employees to determine the validity of these allegations. These interviews

showed that no USDA employee had shredded, removed or destroyed documents relating to USDA's involvement in the BNL matter. The only documents shredded were Dr. Schotta's draft responses to a September 1992 Audit Report prepared by the Inspector General on the Conservation Service. Drafts of Dr. Schotta's response to the Audit Report were circulated for review to personnel within the Conservation Service and other departments within the USDA. When a subsequent draft was distributed, the earlier draft was retrieved and shredded as a means of document control. Dr. Schotta explained that the shredding of the earlier drafts followed normal procedures for her office. Since June 1992, a shredder had been maintained within Dr. Schotta's office space.

A portion of the Inspector General's Audit Report was critical of certain procurement practices of the Conservation Service, specifically the hiring of a firm to process complex claims from American banks that had made guaranteed loans to Iraq through the CCC program. The audit report indicated that the Conservation Service should have allowed competitive bidding on the contract to process the claims rather than hiring the firm on a monthly purchase order basis.

Dr. Schotta's response to the Audit Report included a portion defending the hiring of the firm on a purchase order basis as a means of preventing interest penalties on the banks' claims. Dr. Schotta's response indicated that placing the contract to handle the claims under competitive bidding would have caused a delay, resulting in the imposition of penalties and interest that

could have amounted to millions of dollars. The only portion of Dr. Schotta's response that had anything to do with the BNL matter was the hiring of this firm. Other portions of the report concerned unrelated issues such as travel, training, personnel, and other procurement matters.

The USDA Inspector General investigated not only the allegations concerning the shredding of material by Dr. Schotta and her staff, but also allegations that shredding had gone on in other units or offices of the USDA. The Inspector General found that the allegations were unfounded and determined, following a physical review of all of the Iraqi documents, that all these documents were accounted for.

The Inspector General's review of Dr. Schotta's earlier draft responses to the Audit Report (the earlier drafts had been retained by the Inspector General), also revealed that the changes that Dr. Schotta made were grammatical, and/or stylistic in nature, and not factual or substantive.

In addition, it was learned that John A. Stevenson, Associate Administrator at the Conservation Service, upon hearing of the shredding allegations, confiscated not only the shredder from Dr. Schotta's office, but shredders from other units and offices in the USDA. In addition, Stevenson confiscated six small garbage bags containing the materials shredded by Dr. Schotta and her staff.

The FBI also interviewed Dr. Schotta's husband, Charles Schotta, Deputy Assistant Secretary, Department of the Treasury,

who stated that he had no knowledge of the incident. I have returned to the FBI its memorandum in this matter.

C. Miscellaneous Allegations

1. The Alleged Connection Between BNL And Bank Of Credit And Commerce International ("BCCI")

During the course of the FBI/DOJ Task Force investigation concerning BCCI, periodic media allegations appeared linking BCCI with BNL. I have determined that there was a BNL-BCCI correspondent banking relationship. This relationship appeared to have been consistent with the correspondent relationships both banks maintained with numerous other banks. I have also determined that the investigation to date has developed no evidence identifying criminal activities based on the relationship between the two banks.

2. Kissinger Associates

Representative Gonzalez and some of the media have suggested that Henry Kissinger ("Kissinger"), his consulting firm, Kissinger Associates, Inc. ("Kissinger Associates"), and two former Kissinger Associates directors, Lawrence S. Eagleburger ("Eagleburger") and Brent Scowcroft ("Scowcroft") combined their public posts and private positions to "coverup" the BNL scandal.

Kissinger served as President Nixon's National Security Advisor and subsequently as his Secretary of State. In 1989, Kissinger was appointed as a member of the President's Foreign Intelligence Advisory Board. Kissinger Associates was founded in 1982 and analyzes international political, economic and social trends to help clients make business decisions about operations in

foreign countries. Before joining President Bush's administration as National Security Advisor and head of the NSC in January 1989, Scowcroft served as Vice President of Kissinger Associates and headed its Washington, D.C. office. Prior to assuming his position as Deputy Secretary of State in 1989, Eagleburger, like Scowcroft, worked for Kissinger Associates, and served as its President. During their employment with Kissinger Associates, BNL was a client of that consulting firm.

It is clear that, while at Kissinger Associates, Scowcroft and Eagleburger came into contact with BNL management. I have seen nothing, however, to suggest that they knew of BNL-Atlanta's wrongful loans to Iraq or influenced the prosecution of this matter.

3. The Appointment And Recusal Of Joseph D. Whitley

The fact that Joseph D. Whitley was appointed United States Attorney for the Northern District of Georgia has been criticized because his former law firm had, at one time, represented Matrix-Churchill. In fact, Mr. Whitley became Acting United States Attorney on June 1, 1990, and verbally recused himself from the BNL case the same day. A week later his recusal was confirmed by a written memorandum. Thereafter, Mr. Whitley was confirmed by the United States Senate and appointed by the President on August 4 and August 7, 1990, respectively. He took the oath of office on September 1, 1990. Thus, all the facts that critics point to were available at the time the United States Senate confirmed him. Presumably, the background investigation and

Senate confirmation process would have aired any malfeasance had Mr. Whitley engaged in any impropriety or participated in a "cover up." I see no reason to pursue these allegations further.

IX. THE UNCLASSIFIED BNL CABLE STORY

In Part II of my Report, I deal with the allegations that intelligence information was withheld from, or misrepresented to, Judge Shoob or the USAO in the BNL matter. My analysis requires a detailed discussion of many classified materials. Thus, I have designated Part II as "Top Secret - Codeword" for present purposes to avoid any inadvertent unlawful disclosure.¹¹⁹ What follows is an unclassified summary of Part II.

A. DOJ Requests for Intelligence Information - 1990

The USAO first asked for assistance in collecting certain information in December 1989, when McKenzie wrote to Molly Worlow of the DOJ's Office of International Affairs. Initially, there was confusion about whether the attorneys at DOJ or those at the USAO were to be responsible for making these requests. By July 1990, however, the DOJ had agreed to assume responsibility for requesting and gathering intelligence information sought by the USAO, or at least so the latter understood.

In August, and again in October 1992, Theodore Greenberg at DOJ sent requests to all the U.S. intelligence agencies. Based on his prior experience, Greenberg deliberately framed very broad

¹¹⁹ I have requested of Attorney General Barr that the usual arrangements be made for review by intelligence review persons of Part II of my Report in order to classify each page more specifically.

requests to ensure that DOJ obtained, among other things, any intelligence information on the subjects of whether BNL-Rome had contemporaneous knowledge of BNL-Atlanta's unauthorized loans to Iraq, and whether the U.S. intelligence agencies themselves had contemporaneous knowledge of, or involvement in, those unauthorized loans. He stated that the DOJ was primarily interested in receiving this information to ascertain whether Drogoul might have a "greymail" defense -- that the United States government had endorsed his misconduct -- since Greenberg believed the subject of whether "BNL-Rome knew" was being addressed in depth on other fronts, as discussed previously in this Report.

From October through December 1990, the intelligence agencies produced substantial amounts of materials in response to these requests, including 10 cables or "reports"¹²⁰ that contained information suggesting that "BNL-Rome knew." I have seen some evidence that Greenberg and Peter Clark at DOJ reviewed some, if not all, of the intelligence materials when they were first produced, including a few of the reports on the subject of whether "BNL-Rome knew." However, there is no written record of who, in fact, reviewed these materials, precisely what was found, what was done to analyze and follow up on the information, or what conclusions were ultimately drawn. The two persons who appear to have been involved (Clark and Greenberg) have only hazy recollections on these subjects.

¹²⁰ The Intelligence Community commonly refers to its cables, which are typically one or two-page messages, as "reports."

Clark stated that he believed the intelligence information was not particularly probative and that it created no leads that had not already been explored. Clark also stated that he conveyed his views to the USAO, and that he suggested that the USAO should review this information. The USAO learned, based on their communications with Clark, that there was no intelligence information of value to the case. Classified documents were reviewed by USDA's Arthur Wade in December 1990 or January 1991, and again by Wade and U.S. Customs Agent Richard Horton on September 13, 1991. McKenzie and Chartash reviewed all the cables with Wade in Washington on April 30, 1992.

What is clear is that the decision to treat BNL-Rome as a "victim" of BNL-Atlanta's "off-book" loans in the Indictment returned in February 1991 was the result of direct evidence gathered by the DOJ, USAO, and its Task Force during the investigation and Grand Jury process. In my opinion, the decision was not influenced by the reports gathered from the intelligence agencies, except to the extent that the DOJ and the USAO viewed the absence of contradictory information in the reports as tending to confirm the USAO's theory that BNL-Rome "had not known."

B. Dissemination Of The Intelligence Information By The DOJ And The FBI -- 1989 Through 1991

It is important to note that the DOJ and the FBI were receiving some of this intelligence information through normal dissemination channels as early as 1989. The DOJ received one report in April 1990 discussing whether "BNL-Rome knew," and FBI headquarters received four intelligence reports on this subject

(two in October 1989, and one each in January 1990, and April 1990). Three of these reports were routed to the Task Force in Atlanta. Although in my view the system for disseminating these reports is inadequate, particularly at DOJ, I have seen no indication that dissemination channels were deliberately blocked to prevent the DOJ or the USAO from reviewing any intelligence information.

C. Events In September 1992

On September 1, 1992, Ellen Meltzer at DOJ drafted letters to certain U.S. intelligence agencies asking again for information about whether "BNL-Rome knew," and whether the agencies had any contemporaneous involvement in or knowledge of BNL-Atlanta's activities. In particular, Question 8 in these letters asked whether the Intelligence Community had "any information" that BNL-Rome was "aware" of BNL-Atlanta's "illegal activities." Mueller at DOJ stated that he wanted to follow up "every lead" on this issue before Drogoul's sentencing hearing which had been set to begin on September 14.

The intelligence agencies responded by letter several days later. The CIA's declassified response to Question 8 stated only that the agency had "publicly available information" that BNL-Rome knew, but contained no reference to any private source information. Meltzer questioned this response in a conversation with Urgenson on September 4, and then asked Brinkac at DOJ to follow this up with the CIA. It is unclear whether this was ever done. There is no record indicating that anyone checked this

response against the information already in the DOJ's files.

Nonetheless, Meltzer and the USAO relied on the CIA's negative statement in preparing the Sentencing Memorandum for the Court on September 11. That Memorandum stated that "no credible evidence" existed to support the suggestion that BNL-Rome and U.S. intelligence agencies knew of Drogoul's unauthorized loan activity.

The accuracy of the CIA's response to Question 8 was called into question on September 14, the day the Drogoul sentencing hearing began. Representative Gonzalez issued a press release stating that he had a classified CIA Summary that expressly stated that BNL-Rome was "witting" (or aware) of BNL-Atlanta's "activities."¹²¹ Representative Gonzalez interpreted this information in the CIA Summary to be "in direct conflict with the Justice Department's prosecutorial theory which fingers BNL-Atlanta as a rogue operation, operating independently of BNL's Rome headquarters." At the same time that the press release was issued, Drogoul's lawyer was arguing in the sentencing hearing that U.S. intelligence agencies had known all along of BNL-Atlanta's activities, and supported them.

The USAO attorneys (and DOJ as well) were surprised by Representative Gonzalez' press release, because they had never seen the Summary provided by the CIA to Congress in October 1991, and did not think there was any other intelligence information that

¹²¹ Representative Gonzalez had learned of this information back in October 1991, when his staff had reviewed and taken notes on a summary of intelligence information that the CIA prepared in response to a subpoena by the Gonzalez Committee.

would support Representative Gonzalez' claims. Almost immediately, they received a copy of the Summary and the intelligence reports it was based on, and proceeded to study those documents. After their review, they noted that the Summary did not say expressly that ENL-Rome officers knew contemporaneously of "illegal" activities at ENL-Atlanta, but instead was ambiguous as to what "activities" ENL-Rome was purportedly aware of. They further determined that even if the Summary could be read to say that "ENL-Rome knew," the reports underlying the Summary contained no firm information that supported that inference; rather, the reports were based on press reports, speculation, or information already investigated and found to be either inaccurate or inapposite.

After conducting their review, the DOJ attorneys decided that some explanation in response to Representative Gonzalez' press release was necessary. They undertook to provide one by seeking to declassify the letter containing the CIA's response to Question 8. They also asked that the CIA provide a statement for a press release to explain what they viewed as an inconsistency between Representative Gonzalez' interpretation of the Summary and the actual intelligence information in the reports underlying that Summary.

Two of the CIA's lawyers, David Holmes and George Jameson, were not entirely comfortable with the idea of releasing to the public the letter containing the CIA's response to Question 8. In particular, they were concerned that the CIA's reference only to "publicly available" information was incomplete in view of

Representative Gonzalez' press release, and that some changes should be made to the response. However, according to the CIA, Laurence Urgenson at DOJ "strongly advised" Jameson that no changes be made to the response, and that any changes would have to be accompanied by a full explanation. Holmes and Jameson then agreed to declassify and release their letter without any change in the response to Question 8 in order to be "consistent." The CIA denied being pressured by Urgenson.

The letter was ultimately released on September 17, 1992. Neither the DOJ nor the USAO thought that the letter was inaccurate or misleading at the time. Urgenson and others at the DOJ stated that they expected the CIA also to issue a statement that "corrected" the conclusion in the Summary. It has been reported that the CIA later said that the letter was incomplete and misleading, but Urgenson states that this was not the view of Holmes and Jameson on September 17.

Holmes also supervised the preparation of a statement by the CIA, to be included in a DOJ press release that the DOJ had requested. That statement said in part:

The [DOJ] believes that neither the summary nor the [underlying] reports permit the definitive conclusion that BNL-Rome was aware that BNL-Atlanta was engaged in illegal activities and further believes that the CIA information does not conflict with the prosecution's theory of the case.

Mueller at the DOJ was not satisfied with this statement. According to Holmes, Mueller called the statement "laughable." Mueller objected to the suggestion in the statement that the CIA

Summary and the underlying reports permitted any conclusion (let alone a "definitive" conclusion) that BNL-Rome was aware of any illegal activities.

Mueller decided that the statement could not be issued as written, and directed instead that the Summary and the underlying reports be shown in camera to Judge Shoob in Atlanta, so that Judge Shoob could decide for himself whether this information was inconsistent with the prosecution's theory. (Those documents were in fact given to Judge Shoob on September 23.)¹²² Mueller did not believe that he was concealing important information by withholding a statement he viewed as inaccurate.

On September 21, DOJ and CIA representatives met to discuss the CIA Summary. At that time, the CIA analyst who prepared the Summary acknowledged that it was ambiguous as to whether BNL-Rome was aware of illegal activities, because the underlying reports were ambiguous.

X. LEGAL ANALYSIS AND CONCLUSIONS

Pursuant to the Independent Counsel statute, upon conclusion of my preliminary investigation,¹²³ I must determine

¹²² The Summary and the reports were still classified, and could not be released to the public.

¹²³ In my October 26, 1992, letter to the Attorney General (Ex. 3) in which I recommended a preliminary investigation, I did not distinguish between so-called "covered" persons, defined in 28 U.S.C. § 591(b), and non-covered persons referred to in § 591(c). As to "covered persons," the Independent Counsel statute mandates a preliminary investigation when "information sufficient to constitute grounds to investigate" has been received (§ 591 (a)). As to persons not considered "covered," a preliminary investigation is discretionary under the same
(continued...)

whether there are "reasonable grounds to believe that further investigation" of potential or alleged wrongdoing prohibited by federal criminal law is "warranted." 28 U.S.C. §§ 592(b)(1) and 592(c)(1)(A). In making this determination, I turn to the following criminal provisions which would likely be considered by a Statutory Independent Counsel if appointed: 18 U.S.C. § 1503; 18 U.S.C. § 1505, and 18 U.S.C. § 1001.

As set forth below, each of these criminal statutes requires specific conduct performed with "mens rea" or state of mind. The Independent Counsel statute, however, only permits me to determine that state of mind is lacking if I can find that there is "clear and convincing evidence" of its absence. 28 U.S.C. § 592 (a)(B)(ii). The statute thus creates a virtual rebuttable presumption of the statutory state of mind, a presumption that may be rebutted only by "clear and convincing evidence."

A. 18 U.S.C. §1503

Section 1503 generally proscribes the obstruction of the "due administration of justice," in connection with a judicial proceeding, by corrupt endeavor. The use of the term corruptly, together with the term endeavor, "charges an intentional act." United States v. Haas, 583 F.2d 216 (5th Cir. 1978), cert. denied,

¹²³(...continued)

circumstances. In his October 27, 1992 letter to me, in accepting my recommendation, the Attorney General asked: (a) that I commence such preliminary investigation, and (b) that I attempt to conclude it by December 8, 1992, six days before expiration of the Independent Counsel statute. As a review of this Report reveals, my investigation has been wide-ranging and has included within its reach both individuals considered "covered" persons by the statute and those not considered "covered" persons.

440 U.S. 981 (1979). Generally, the Government must demonstrate that the person charged with a § 1503 offense "knowingly and intentionally undertook an action from which an obstruction of justice was a reasonably foreseeable result." United States v. Thomas, 916 F.2d 647, 651 (11th Cir. 1990) (citations omitted) (emphasis added).

The term "corruptly" connotes specific intent. See United States v. Machi, 811 F.2d 991, 996 (7th Cir. 1987) ("Corruptly means to act with the purpose of obstructing justice."); United States v. Partin, 552 F.2d 621, 641 (5th Cir.), cert. denied, 434 U.S. 903 (1977) ("The word corruptly means a defendant acted with improper motive or with bad or evil or wicked purpose."); United States v. Jeter, 775 F.2d 670 (6th Cir. 1985), cert. denied, 475 U.S. 1142 (1986) (Section 1503's mens rea requirement limits the scope of the statute to persons "who 'corruptly' or intentionally seek to obstruct the due administration of justice.")¹²⁴

¹²⁴ Both the Fourth and Eleventh Circuits have departed somewhat from the specific intent requirement as framed by other Circuits. A recent Eleventh Circuit decision, defining the term "corruptly," constricted the specific intent element as follows:

'Corruptly' describes the specific intent of the crime and can vary in meaning with the context of the section 1503 prosecution Although the government is not required to prove that the defendant had the specific purpose of obstructing justice . . . it must establish that the conduct was prompted at least in part, by a corrupt motive.

United States v. Thomas, 916 F.2d 647, 651 (11th Cir. 1990) (citations omitted); see also United States v. Neiswander, 590 F.2d 1269, 1274 (4th Cir.), cert. denied, 441 U.S. 963 (1979) (continued...)

The term "endeavor" has been held to describe "any attempt or effort to obstruct justice." Thomas, 916 F.2d at 651 (citation omitted); United States v. Buffalano, 727 F.2d 50, 53 (2d Cir. 1984) (defining endeavor "as 'any effort or essay to accomplish the evil purpose that the statute was enacted to prevent'" (quoting United States v. Russell, 255 U.S. 138, 143 (1921))). The government need not demonstrate that the endeavor was ultimately successful or that it achieved the desired result. See, e.g., Osborn v. United States, 87 S. Ct. 429, 434-435 (1966); United States v. Jackson, 513 F.2d 450, 460 (D.C. Cir. 1975) ("[I]t is the endeavor to bring about the forbidden result, and not success in achieving the result, that Section 1503 makes a crime."); Thomas, 916 F.2d at 651. However, the court in Brand noted that § 1503 proscribes only those acts which produce or which are capable of producing an effect that prevents the due administration of justice. 775 F.2d at 1465.

B. 18 U.S.C. §1505

Section 1505 of the obstruction of justice statute applies broadly to all pending proceedings, including Congressional proceedings. Section 1505 also requires proof of specific intent, or a corrupt endeavor, to sustain a conviction.

Other than the celebrated cases arising out of the Iran-

¹²⁴(...continued)
(holding that "a defendant who intentionally undertakes an act or attempts to effectuate an arrangement, the reasonably foreseeable consequence of which is to obstruct justice, violates 18 U.S.C. § 503 even if his hope is that the judicial machinery will not be seriously impaired.").

Contra scandal (see United States v. North, 708 F. Supp. 385 (D.D.C. 1988), and United States v. Poindexter, 951 F.2d 369 (D.C. Cir. 1991)), only a handful of decisions under § 1505 have considered alleged obstructions of Congressional "proceedings." See, e.g. United States v. Mitchell, 877 F.2d 294 (4th Cir. 1989), reh'g denied, 1989 U.S. App. LEXIS 13462 (4th Cir. 1989).

The requirement of § 1505 that the defendant has acted "corruptly" is given similar meaning to the "corrupt" element of § 1503. In United States v. Price, 951 F.2d 1028, 1031 (9th Cir. 1991), the court held that the "requisite intent to violate Section 1505 is . . . merely that the 'defendant must have acted 'corruptly,' i.e., that the act must be done with the purpose of obstructing justice'" (citation omitted). A similar definition was adopted in United States v. Laurina, 857 F.2d 529, 536-37 (9th Cir. 1988), where the court held that the defendant acted corruptly by concealing documents in response to an IRS subpoena.

The District of Columbia Court of Appeals in United States v. Haldeman, 559 F.2d 31 (D.C. Cir. 1976), construing § 1503, adopted a variation of the definitions above, holding that the term "corruptly" means having an evil purpose or intent. See also United States v. Sprecher, 783 F. Supp. 133, 164 (S.D.N.Y. 1992) ("'Corruptly' simply means to be motivated by an improper purpose") (citations omitted).¹²⁵ In North, however, the court

¹²⁵ The absence of "illegal means" does not mean that the allegedly violative conduct is not corrupt. Mitchell, 877 F.2d at 298. The court in Mitchell stressed that the crucial inquiry focuses on "whether a defendant had the requisite corrupt intent to improperly influence the investigation, not on the means the defendant employed in bringing to bear this influence." Id. at 299.

cautioned:

Unlike courts of law covered by section 1503, congressional committees are part and parcel of a political branch of government and therefore serve wide-ranging political functions not limited to a search for truth in accordance with formal rules . . . No one can seriously question that people constantly attempt in innumerable ways, to obstruct or impede congressional committees . . . but it does not necessarily follow that [it] is . . . [done] corruptly.

The Court of Appeals in United States v. Poindexter, 951 F.2d 369, 379 (D.C. Cir. 1991), in an opinion authored by then Judge Ginsburg, construed more strictly than any other court the scope of sanctionable conduct under § 1505. The Poindexter decision is an apparent retrenchment from the prior decisions of the District of Columbia Court of Appeals (see North, supra, United States v. Lavelle, 751 F.2d 1266 (D.C. Cir.), cert. denied, 474 U.S. 817 (1985)) on the applicability of § 1505 to Executive Branch officials, although the court did not expressly overrule those decisions.

In Poindexter, the defendant was charged with obstructing congressional inquiries into the Iran-Contra scandal. The Poindexter court deemed the term "corruptly" as used in § 1505 to be so vague as to "provide [no] constitutionally adequate notice that it prohibits lying to Congress." Poindexter, 951 F.2d at 379. In an elaborate analysis of the statute, the court suggested that acting "corruptly" oneself would not necessarily be violative of § 1505, and interpreted the statute to proscribe corrupting another by influencing that individual to violate his own legal duty.

With the notable exception of Poindexter, courts interpreting § 1505 have generally construed broadly the range of

"endeavors" covered by § 1505. In Mitchell, for instance -- a case proscribing an endeavor to stop a congressional investigation -- the court held that any effort or act "when done with the requisite intent to corruptly influence a congressional investigation, violates [§ 1505]." Mitchell, 877 F.2d at 299.

Endeavors proscribed by § 1505 have included directing an individual to destroy records responsive to a DOE subpoena, Sutton, supra; supplying false testimony and directing an individual to alter sales invoices and submit them to an inquiring agency, United States v. Fruchtmann, 421 F.2d 1019 (6th Cir), cert. denied, 400 U.S. 849 (1970); deliberately concealing matters material to an SEC investigation, Sprecher, supra; submitting a false document in response to a subpoena issued by the IRS, United States v. Vixie, 532 F.2d 1277 (9th Cir. 1976); supplying evasive answers and concealing knowledge (i.e., feigning forgetfulness) in testimony at SEC investigative hearings, United States v. Alo, 439 F.2d 751 (2d Cir.), cert. denied, 404 U.S. 850, reh'g denied, 404 U.S. 961 (1971); altering, concealing, or withholding records which, according to the Indictment, bore a "reasonable relation" to the subject matter of a Senate Committee inquiry, United States v. Presser, 292 F.2d 171 (6th Cir. 1961), aff'd by an equally divided court, 371 U.S. 71 (1962); and influencing a witness to give false information and testimony to a Senate Committee and its investigators, Stein v. United States, 337 F.2d 14 (9th Cir. 1964), cert. denied, 380 U.S. 907 (1965).

C. 18 U.S.C. §1001

Section 1001 proscribes (1) the knowing and willful falsification or concealment of a material fact; (2) the making of

any false or fraudulent statement or representation; and (3) the making or using of a false writing or document with knowledge that it contains a false or fraudulent statement "in any matter within the jurisdiction of any department or agency of the United States."

A "concealment" is an "affirmative act by which a material fact is actively concealed." It must be more than a mere passive failure to disclose. U.S. v. Shannon, 836 F.2d 1125, 1130-31 (8th Cir.), cert. denied, 486 U.S. 1058 (1988). A "false statement" is a statement which "is designedly untrue

. . . and made with intention to deceive the person to whom the false statement is made or exhibited." U.S. v. Worthington, 822 F.2d 315 (2d Cir.), cert. denied, 484 U.S. 944 (1987). A "false writing" is merely a false statement inserted into a writing. Cf. Devitt, et al., supra, at 450.

The materiality requirement of the statute may be met if the false statement has "the capacity to impair or pervert the function of a government agency." U.S. v. Lichtenstein, 610 F.2d 1272, 1278 (5th Cir.), cert. denied, 447 U.S. 907 (1980):

The test of 'materiality' is whether the statement 'has the natural tendency to influence, or was capable of influencing, the decision of the tribunal in making a [particular] determination.' Proof of actual reliance on the statement is not required; the Government need only make a reasonable showing of its potential effects.

U.S. v. Diggs, 613 F.2d 988, 999 (D.C. Cir. 1979), cert. denied, 446 U.S. 982 (1980) (quoting Wainstock v. U.S., 231 F.2d 699, 701-702 (D.C. Cir. 1956) (footnote omitted)).

The false statement, concealment or omission must be made "knowingly and willfully." Typically, courts interpret these two

terms as a unitary concept requiring proof that the defendant made the statement deliberately (and not as the result of a mistake or accident), with knowledge that the statement was false, and with "specific intent." See, e.g., U.S. v. Guzman, 781 F.2d 428, 431 (5th Cir.) cert. denied, 475 U.S. 1143 (1986); U.S. v. Lichtenstein, 610 F.2d at 1277. Several circuits describe specific intent as follows:

The statement must have been made with an intent to deceive, a design to induce belief in the falsity or to mislead, but § 1001 does not require an intent to defraud -- that is, the intent to deprive someone of something by means of deceit.

United States v. Lichtenstein, 610 F.2d at 1272. See also U.S. v. Corsino, 812 F.2d 26, 29 (1st Cir. 1987); U.S. v. Martin, 772 F.2d 1442 (8th Cir. 1985).

Despite the specific intent requirement, some courts have allowed the "knowingly and willfully" element of the clause to be satisfied by proof that the defendant acted "with reckless disregard of the truthfulness of the statement and with the conscious purpose to avoid learning the truthfulness of the statement." U.S. v. Evans, 559 F.2d 244, 247 (5th Cir. 1977). See also, U.S. v. Hanlon, 548 F.2d 1096, 1100-01 (2d Cir. 1977); United States v. Lange, 528 F.2d 1280, 1288 (5th Cir. 1976).

Given the constraints the Independent Counsel statute imposes on the proof upon which I may rely for "state of mind" findings, in conducting my investigation I examined the words and deeds of individuals and was prepared to infer evil motive as suggested by events unless "clear and convincing evidence" demonstrated otherwise.

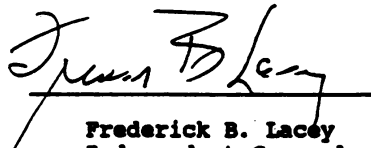
After having carefully studied all of the information I have assembled, as analyzed and discussed in the body of this Report, I conclude that with the exception of the matter of Mr. Kloske, in each instance the evidence is indeed clear and convincing that the requisite intent to obstruct, "cover up" or misrepresent any aspect of the Drogoul prosecution was lacking on the part of those involved or against whom interference has been charged. In fact, I have found that there is no credible evidence to suggest otherwise.

~~In my~~ scrutiny of all other conduct addressed in this Report (again, with the exception of Mr. Kloske), I have found no credible evidence that any person in the DOJ or the USAO acted to obstruct the due administration of justice in connection with a judicial, Congressional or any other proceeding, or to make any false statements to any department or agency of the United States. Absent any credible evidence of corrupt motive, the "clear and convincing evidence" necessary to overcome the presumed intent under 28 U.S.C. § 592(a)(B)(ii) is clearly met. Although it was not within the scope of my assignment, my investigation does suggest that a possible exception may exist with respect to the conduct of Mr. Kloske, and the Attorney General may wish to consider further investigation.

RECOMMENDATION

On the basis of the foregoing I recommend that, pursuant to 28 U.S.C. Sec. 592(b)(1), you promptly notify the Special Division of the United States Court of Appeals for the District of Columbia Circuit that you have determined that there are no reasonable grounds to believe that further investigation is warranted with respect to the matters involved herein. I will not presume to suggest to you a form of notification.

Date: December 8, 1992


Frederick B. Lacey
Independent Counsel
28 U.S.C. Part 600

THE **B**ANCA
NAZIONALE
del
LAVORO
INVESTIGATION

REPORT OF **THE**
INDEPENDENT
COUNSEL

FREDERICK B. LACEY
ON THE
PRELIMINARY INVESTIGATION

PART II

DECEMBER 8, 1992

B N L

REPORT
of
THE INDEPENDENT COUNSEL

PART II

Dec. 8, 1992

UNCLASSIFIED

UNCLASSIFIED

TABLE OF CONTENTS

	Page
PART II - THE BNL CABLE STORY	1
INTRODUCTION	1
BACKGROUND	2
I. Initial Contacts Between DOJ and the USAO -- December 1989 to June 1990	2
A. Early Review By DOJ	2
B. Initial Debate Regarding Whether BNL-Rome Knew	4
II. Initial Discussions Regarding Requests for Intelligence Community Information -- December 1989 - August 1990	7
III. Information Gathered and Disseminated by the Intelligence Community -- September 1989 - February 1991	12
A. Intelligence Reports Gathered	12
B. Dissemination of Intelligence Information to the DOJ and the FBI	19
1. Routing Cables at the DOJ	20
2. Routing Cables at the FBI	21
C. Non-dissemination of Certain Cables	23
IV. DOJ Receives Intelligence Information from the CIA, in Response to its Initial Requests -- August 1990 - October 1990	26
A. The CIA's August 24 Interim Response	26
B. The CIA's October 2 Response	28
V. Additional DOJ Requests for Intelligence Information from All the Agencies, and Responses to those Requests -- October 1990 -- March 1991	30
A. The DOJ Letter Requests	30
B. The CIA'S Supplemental Response - December 1990	31
C. The DIA Response - November 1990	32
D. The State Department Response - December 1990	34
E. The NSA Response - December 1990	34
F. The NSC Response - November 1990	35

UNCLASSIFIED

TABLE OF CONTENTS

(continued)

Page

VI. Communications Within the DOJ Regarding Intelligence Information -- October - December 1990	36
VII. Further Debate on Whether BNL-Romr Knew -- October 1990 - February 1991	40
VIII. Additional Inter-Agency-Information Requests -- February 1991	44
IX. DOJ's Receipt of the 6 November 1989 Typescript -- March 1991	45
X. The Gonzalez Summary -- October 1991	47
XI. Additional Inter-Agency Requests -- June 1991 - February 1992	49
XII. Inspection of Intelligence Information by the USAO Task Force Team -- April 1991 - April 1992	50
XIII. The Drogoul Plea Hearing and Debriefings -- June - August 1992	51
XIV. Congressional Committee Requests -- June 1992	52
XV. Inter-Agency Communications Regarding Diversion/ Bartering Allegations -- June 1992 - August 1992	53
XVI. The Meeting at DOJ on August 31, 1992	54
XVII. Summary of Significant Events Related to Dissemination of Intelligence Information	55
THE SEPTEMBER 1992 STORY	59
I. The September 1, 1992 Letters to the Intelligence Community	59
II. Meltzer Views the CIA'S All-Source Chronology -- September 3	61
III. The Responses to the September 1 Letters -- September 4 and 8	62

UNCLASSIFIED

TABLE OF CONTENTS

(continued)

Page

A. The CIA'S Preparation of its Response -- September 4	64
B. The NSA'S Preparation of A Response -- September 8	69
C. The DIA'S Preparation of A Response -- September 4	69
IV. The Sentencing Memorandum and Brill's Letter To Cook -- September 10 and 11	70
V. The Gonzalez Press Release - September 14	72
VI. The Commencement of The Drogoul Sentencing Hearing - - September 14	73
VII. Reaction at DOJ-- September 14 - 16	74
VIII. The USAO'S Analysis of The CIA Summary	77
IX. Reaction at The CIA - September 14-16	78
X. The September 17, 1992 CIA Letter	79
XI. The CIA Statement Prepared on September 18	83
XII. The September 17, 1992 DIA Letter	85
XIII. The Request for An Unclassified NSA Letter	86
XIV. The September 21, 1992 Meeting	87
XV. The Drogoul Sentencing Hearing--September 17	89
XVI. The Court Reviews The Gonzalez Summary - September 23	91
XVII. Drogoul Recants His Earlier Statements	92
XVIII. The Discovery of New Information	93

TABLE OF CONTENTS

(continued)

UNCLASSIFIED

Page

LEGAL ANALYSIS AND RECOMMENDATIONS	94
I. Independent Counsel Statute	94
A. 18 U.S.C. §1503	95
B. 18 U.S.C. §1505	97
C. 18 U.S.C. §1001	100
II. Analysis Under The Independent Counsel Statute	103
A. Was Any Intelligence Information Withheld From The USAO?	103
1. DOJ Provided Full Access to Information	104
2. Inadequate Procedures at DOJ for Requesting and Reviewing Intelligence Information	106
3. The CIA Provided Incomplete Information To The DOJ	
B. Were Misrepresentations Made To The Court In the September 1992 Sentencing Memorandum or Wade's Testimony	111
C. Was The Release Of The September 17 Letter, And The Withholding Of The September 18 Statement, Misleading?	
1. The September 17 CIA Letter	115
2. The September 18 Statement	119
D. The DIA's September 17 Letter	120
E. Brill's September 21 Statement	121
Conclusions	122

TABLE OF CONTENTS

(continued)

UNCLASSIFIED

Page

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #1		1/26/90	Memorandum	From McKenzie to Richard Re: BNL-Atlanta investigation and plea agreements.
OIC #2	TG #1	2/12/90	Memorandum	From Clark to Greenberg Re: BNL investigation.
OIC #3		4/24/90	Memorandum	From Urgenson to Mueller, Richard, Arens, Martin, Greenberg, Clark Re: BNL prosecution memorandum.
OIC #4		4/90	Prosecution Memorandum	From Rakstele (by McKenzie) to Urgenson Re: Scheme to defraud BNL and to submit false statements.
OIC #5	TG #7	5/9/90	Facsimile Transmittal and Memorandum	Fax from Clark to Urgenson. Memorandum from Clark to Urgenson and Greenberg Re: BNL.
OIC #6		5/29/90	List	Attendance at May 29, 1990 White House meeting.
OIC #7	TG #4	7/3/90	Letter	From Rakstele to Richard Re: Current status of BNL investigation.
OIC #8	TG #3	7/12/90	Memorandum	From Greenberg to Urgenson Re: BNL investigation.
OIC #9	TG #2	7/12/90	Memorandum	From Clark to Greenberg Re: CIA knowledge.
OIC #10	TG #8	8/3/90	Memorandum	From Greenberg to [REDACTED] Re: Request for traces and other CIA information.
OIC #11		8/13/90	Draft Memorandum	From Dennis to Attorney General Barr Re: Status of BNL investigation.
OIC #12	TG #10	8/24/90	E-Mail	From Greenberg Re: Various topics relating to BNL investigation.

TABLE OF CONTENTS

(continued)

UNCLASSIFIED

Page

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #13		3/11/91	Letter	From [REDACTED] to Clark Re: Intelligence report on BNL.
OIC #14		11/6/89	Typewritten	Summary prepared by [REDACTED] Re: Iraq-Irany Repercussions of the BNL-Atlanta Scandal ("November 6 Typewritten").
OIC #15	TG #9	8/24/90	Letter	From Jameson to Greenberg Re: CIA traces.
OIC #16	RM #2	10/1/90	Status Report	From Rukstale (by McKenzie) to Mueller Re: Status of BNL investigation.
OIC #17	TG #11	10/2/90	Letter	From Jameson to Greenberg Re: CIA traces.
OIC #18	TG #12	Undated	Memorandum	Results of CIA traces.
OIC #19	TG #13	10/2/90	E-Mail	From Clark Re: Meeting between USAO and DOJ.
OIC #20	TG #14	10/8/90	Letter	From Greenberg to Jameson Re: CIA traces.
OIC #21	TG #16	10/15/90	Letter	From McKenzie to Urgeason Re: Proposed indictment.
OIC #22	TG #17	10/25/90	Prosecution Memorandum	From Whitley (by McKenzie) to Urgeason Re: Proposed indictment.
OIC #23	TG #18	11/13/90	Memorandum	From Clark (through Greenberg) to Urgeason Re: New York FRB documents.
OIC #24	PC #5	11/15/90	Letter	From Urgeason to Rukstale Re: Subpoenaed documents and questions relating thereto.
OIC #25	PC #6	11/19/90	Memorandum	From Urgeason to Maloney Re: Update of BNL investigation.

TABLE OF CONTENTS

(continued)

UNCLASSIFIED

Page

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #26	RM #3	11/30/90	Memorandum	From Urgenson (through Maloney) to Mueller Re: BNL status report.
OIC #27	TG #21	12/7/90	Memorandum w/ 4 E-Mail attachments	From Clark to Urgenson Re: Review of Intelligence information; E-Mails from Greenberg Re: same.
OIC #28	PC #7	12/10/90	Letter	From McKenzie to Urgenson Re: DOJ assistance.
OIC #29	TG #20	12/6/90	Memorandum	From Clark to McKenzie Re: Indictment and BNL investigation.
OIC #30	PC #8	1/11/91	Memorandum	From Taylor to Files Re: 1/11/90 meeting between USAO and DOJ.
OIC #31	PC #9	1/31/91	Memorandum and Prosecution Memorandum	From Clark to Urgenson Re: Summary of investigation; Prosecution Memorandum from Urgenson (through Maloney) to Mueller Re: Fraud Section analysis of USAO proposed indictment.
OIC #32	PC #11	2/1/91	Memorandum and Prosecution Memorandum	From Urgenson (through Maloney) to Mueller Re: BNL Status Report.
OIC #33		2/1/91	Memorandum	From Clark to Urgenson Re: Gonzalez subpoena and other items.
OIC #34		2/7/91	Memorandum	From Urgenson to Mueller Re: Proposed foreign defendants.
OIC #35		3/5/91	Letter	From [REDACTED] to Clark Re: CIA traces.
OIC #36		2/24/92	Letter	From Gonzalez to Barr Re: Intelligence requests.

TABLE OF CONTENTS

(continued)

UNCLASSIFIED

Page

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #37		T: 6/5/92 S: 6/26/92	Letter	From Richard to Jameson Re: Diverted CCC guaranteed agricultural products.
OIC #38		5/5/92	Letter	From Richard to Thessin Re: Diverted CCC guaranteed agricultural products.
OIC #39		5/5/92	Letter	From Richard to Brady Re: Diverted CCC guaranteed agricultural products.
OIC #40	PC #14	7/9/92	Facsimile with attachments	From Brinkac to McKenzie (attaching Letter from [REDACTED] to Clark Re: traces and November 6 Typescript).
OIC #41		7/22/92	Letter	From Jameson to Richard Re: Diverted CCC guaranteed agricultural products.
OIC #42	PC #15	7/30/92	Memorandum	From Barsella to Clark Re: Final Report of the Italian Parliamentary Committee.
OIC #43		7/31/92	Letter	From McDowell to Jameson Re: CIA traces.
OIC #44	PC #17	8/4/92	E-Mail	From Clark Re: NSA documents concerning diversion of CCC guaranteed products.
OIC #45	PC #16	8/7/92	Memorandum	From Brinkac to McDowell and Clark Re: Outstanding Requests for Information from Federal Agencies.
OIC #46	PC #19	9/1/92	Letter	From McDowell to Baker Re: [REDACTED]
OIC #47	PC #18	9/1/92	Letter	From McDowell to Holmes Re: CIA knowledge of BNL conduct.
OIC #48	PC #21	Undated	Letter	From Holmes to McDowell Re: CIA knowledge of BNL conduct.
OIC #49		9/4/92	E-Mail	From Meltzer to Brinkac Re: CIA and DIA knowledge of BNL conduct.

TABLE OF CONTENTS

(continued)

Page

UNCLASSIFIED

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #50		9/15/92	Summary	Transmitted from [REDACTED] to Meltzer. BNL Summary.
OIC #51	PC #4	9/15/92	Summary	Transmitted from Meltzer to Kelly. BNL Summary and underlying cables.
OIC #52	DH #7	10/8/92	Note and Attached Cables	From Jameson to Urgenson (attaching November 17, 1989 cable and December 14, 1989 cable).
OIC #53	PC #13	3/11/91	Letter and Typescript	From [REDACTED] to Clark Re: Traces (attaching November 6 Typescript).
OIC #54		7/23/92	Memorandum for the Record	From [REDACTED] Re: Rep. Gonzalez allegations and discussion with McKenzie.
OIC #55		8/10/92	Letter	From [REDACTED] to Clark Re: CIA traces.
OIC #56		8/31/92	Facsimile Cover Sheet	From Meltzer to [REDACTED]. Drogoul's list of alleged CIA, NSA and DIA contacts.
OIC #57		9/1/92	Facsimile Cover Sheet	From Meltzer to [REDACTED]. "Copy also faxed to David Holmes."
OIC #58		9/1/92	Facsimile Cover Sheet	From Meltzer to Holmes: "Copy also faxed to [REDACTED]"
OIC #59		1/12/90	CIA Cable	Re: [REDACTED]
OIC #60	RM #7	9/18/92	Proposed Press Release	Re: CIA Summary provided to Congressman Gonzalez and underlying reports.
OIC #61		12/18/90	Letter	From Jameson to Greenberg Re: CIA traces.
OIC #62		9/21/92	Handwritten Notes	Notes of September 21, 1992 meeting.

TABLE OF CONTENTS
(continued)

Page

UNCLASSIFIED

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #63		9/23/92	Memorandum	From [REDACTED] for the Record Re: September 21, 1992 meeting.
OIC #64		9/25/92	Letter	From Brill to Holmes Re: Judge Shoob's inquiries.
OIC #65		9/29/92	Letter	From Brill to Holmes Re: Judge Shoob's inquiries.
OIC #66		9/30/92	Letter	From Holmes to Brill Re: Judge Shoob's inquiries.
OIC #67		9/30/92 to 10/9/92	Draft Letters	Draft responses to Brill's letter concerning Judge Shoob's inquiries; October 9 letter from Rindskopf to Judge Shoob.
OIC #68		10/8/92	Facsimile Cover Sheet and Letter	Fax from [REDACTED] to Urgenson and Meltzer; Note from [REDACTED] to Meltzer (attaching part of 9/12/89 cable).
OIC #69	DH #8	10/8/92	Facsimile Cover Sheet and Cable	From [REDACTED] to Urgenson and Meltzer (attaching remainder of 9/12/89 cable).
OIC #70		10/8/90	Letter	From Greenberg to Allard Re: DIA traces.
OIC #71		10/17/90	Letter	From Berry to various DIA personnel Re: DIA traces.
OIC #72		10/15/90	Letter	From [REDACTED] to Berry Re: Traces
OIC #73		11/23/90	Letter	From Bathea to Greenberg Re: DIA traces.
OIC #74		9/15/89	DIA Cable	Re: Strategy to support Iraq in war against Iran.

TABLE OF CONTENTS

(continued)

Page

UNCLASSIFIED

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #75		11/21/90	Routing and Transmittal Slip	From Bathen to GC Re: Release of [REDACTED] to DOJ.
OIC #76		12/19/90	Letter	From [REDACTED] to Berry Re: Traces.
OIC #77		1/2/91	Letter	From Bathen to Greenberg Re: DIA traces.
OIC #78		4/88	Cables	Cables.
OIC #79		1/2/91	Letter	From Bathen to Greenberg (enclosing June 1989 DIA Defense Research Comment).
OIC #80		6/29/89	Defense Research Comment	June 1989 DIA Defense Research Comment.
OIC #81		1/18/91	Memorandum	From Bathen to Morrison Re: [REDACTED]
OIC #82		2/11/91	Note	Note from Greiveldinger to Allard and Memorandum from O'Donnell Re: Indictment of foreign nationals (attaching 2/10/91 Revised Memorandum Urgenson to Mueller).
OIC #83		6/26/92	Letter	From Richard to Allard Re: Diverted CCC guaranteed agricultural products.
OIC #84		7/6/92	Memorandum	From Berry to various individuals Re: Diversion of CCC guaranteed agricultural products (attaching 6/26/92 letter from Richard to Allard).
OIC #85		8/3/92	Letter	From Berry to Clark Re: Diversion of CCC guaranteed agricultural products.
OIC #86		9/1/92	Facsimile Cover Sheet and Letter	From McDowell to Berry Re: DIA knowledge of BNL conduct.

TABLE OF CONTENTS

(continued)

UNCLASSIFIED

Page

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #86-A		9/1/92	Letter	From McDowell to Berry Re: DIA knowledge of BNL conduct.
OIC #87		Undated	Handwritten Notes	List of names, DOBs and SSNs.
OIC #88		9/4/92	Letter	From Berry to Meltzer Re: DIA knowledge of BNL conduct.
OIC #89	PC #29	9/17/92	Letter	From Berry to Brill Re: DIA knowledge of BNL conduct.
OIC #90		12/7/89	Memorandum	From McKenzie to Warlow Re: Iraqi officials under investigation.
OIC #91	TG #15	10/9/90	Memorandum	From McKenzie to Greenberg Re: CIA and other Intelligence Community traces.
OIC #92		12/14/90	Letter	From McKenzie to Clark Re: State Department cables.
OIC #93		12/17/90	Memorandum	From Clark to McKenzie Re: State Department cables.
OIC #94		4/30/92	Memorandum	From McKenzie to Brinkac Re: Diversion of CCC guaranteed agricultural products.
OIC #95		6/30/92	Memorandum	From McKenzie to Horton Re: Customs investigation.
OIC #96		7/30/92	Memorandum	From McKenzie to Brinkac Re: Requests for intelligence information.
OIC #97		7/28/92	Facsimile Cover Sheet and Letter	From McKenzie to Brinkac (attaching 7/28/92 letter from Clark to Jameson Re: CIA traces).
OIC #98	RM #6	9/4/92	Letter and Summary	From Berry to Meltzer Re: DIA traces (attaching CIA Summary and Cables).

TABLE OF CONTENTS

(continued)

UNCLASSIFIED

Page

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #99	PC #26	September 1992 Draft	Government Sentencing Memo	Draft Sentencing Memorandum Re: Drogoul.
OIC #100		9/10/92	Letter	From Brill to Cook Re: Gonzalez's document request.
OIC #101		9/16/92	Transcript	Testimony of Wade at Drogoul's sentencing hearing.
OIC #102	TG #5	2/13/90 [sic]	Agenda	Agenda of February 13, 1991 meeting between DOJ and USAO.
OIC #103		12/07/90	Cable	Legal officer warns that Ref. A contains information that is discoverable.
OIC #104		12/21/90	Cable	[REDACTED]
OIC #105		9/30/89	Cable	[REDACTED]
OIC #106		9/26/89	Cable	[REDACTED]
OIC #107		12/21/90	Cable	[REDACTED]
OIC #108		12/7/90	Cable	[REDACTED]
OIC #109		11/17/89	Cable	FBI Rep. comments that five-page report is discoverable and could reveal source if called to testify.

TABLE OF CONTENTS

(continued)

Page

UNCLASSIFIED

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #110	DH #10	F: 10/21/92 L: 1/31/90	Facsimile Cover Sheet and Letter	Fax from Urgeson to Meltzer (attaching letter to Kunkel Re: involvement of BNL-Rome managers).
OIC #111		3/16/92	Memorandum	From Clark to McDowell Re: Gonzalez's request for intelligence information.
OIC #112		3/9/90	Memorandum	From Rostow to Haass, Working and Deal Re: Iraq export credits.
OIC #113		5/21/90	Memorandum	From Rostow to Scowcroft Re: Indictment of Iraqi officials.
OIC #114		5/29/90	Memorandum	From Rostow to Gates Re: Iraq export credits.
OIC #115		5/29/90	Memorandum	From Charles (through Haass) to Gates Re: Iraq export credits.
OIC #116		6/8/90	Memorandum and Minutes	From Charles (through Haass) to Sinnott (attaching minutes of 5/29/90 NSC Deputies Committee Meeting.
OIC #117		2/8/91	Memorandum	From Rostow to Scowcroft (attaching prosecution memorandum) Re: indictment of Iraqi officials.
OIC #118		7/9/92	Letter	From Gray to President Re: Update of BNL matter.
OIC #119		5/27/92	Facsimile Cover Sheet and Outline	From Itoh to Rostow Re: Misconceptions regarding Iraq, BNL and CCC.
OIC #120		4/91	Handwritten Notes	Rostow notes of April 1991 meeting.
OIC #121		5/31/91	Handwritten Notes	Rostow notes of May 1991 meeting.
OIC #122		2/22/91	Memorandum	From Stillman to Rademaker Re: "Sanitized List" of Iraq License Applications.

TABLE OF CONTENTS

(continued)

UNCLASSIFIED

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST

OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #201	PC #1	1/26/90	Memorandum	From McKenzie to Richard Re: Status of BNL investigation.
OIC #202	TG #19	11/29/90	E-Mail	From Greenberg Re: NSC documents.
OIC #203	PC #10	2/1/91	Memorandum	From Clark to File Re: BNL-Rome's knowledge (MEED Article).
OIC #204	PC #2	6/3/92	Draft Chronology	BNL Events.
OIC #205	RM #4	6/23/92	Testimony	Mueller's testimony before the House Committee on the Judiciary.
OIC #206	RC #1	8/31/92	Press Report	New York Times article written by William Safire.
OIC #207	PC #20	9/1/92	Note	From Mekzer to Mueller Re: Intelligence information.
OIC #208	RM #5	9/1/92	E-Mail	From Mekzer to Saylor Re: Intelligence information.
OIC #209	PC #22	9/8/92	Letter	From Cook to McKenzie Re: Request for documents.
OIC #210	PC #23	9/8/92	Memorandum	From Clark to Brill Re: Cook's document request.
OIC #211	PC #24	9/9/92	Routing and Transmittal Slip	From Clark to Richard (attaching 9/8/92 memo from Clark to Brill and draft of 9/9/92 letter from Brill to Cook Re: documents).
OIC #212	PC #25	9/11/92	Memorandum	From Brinkac (through McDowell) to Urgenson Re: Requests for intelligence.

TABLE OF CONTENTS

(continued)

UNCLASSIFIED

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #213	DH #2	9/14/92	Congressional Record	Gonzalez's statement before House of Representatives.
OIC #214	PC #27	9/14/92	Press Release	Re: CIA Knowledge of BNL conduct.
OIC #215	PC #28	9/15/92	E-Mails	Re: Gonzalez's statements.
OIC #216	PC #30	9/17/92	Letter	From Holmes to Brill Re: CIA knowledge of BNL conduct (faxed from [REDACTED] to Urgenson).
OIC #217	DH #3	9/92	Statement and E-Mails	Re: Gonzalez's statements and CIA letters.
OIC #218	DH #4	9/22/92	Letter	From Gonzalez to Gates Re: CIA letters.
OIC #219	DH #5	9/25/92	Letter	From Brill to Holmes Re: Judge Shoob's inquiries.
OIC #220	DH #6	9/30/92	Letter	From Holmes to Brill Re: Judge Shoob's inquiries.
OIC #221	DH #9	10/8/92	Note	From [REDACTED] to Meltzer Re: 9/12/89 cable.
OIC #222	DH #12	10/10/92	Statement	CIA Statement Re: CIA testimony before SSCL.
OIC #223	DH #11	August and October 1992	Facsimile Cover Sheet and Letters	Fax from Meltzer to [REDACTED] dated 10/28/92; Letter from Raul to Rindskopf, dated 8/6/92; Letter from Rindskopf to Raul, dated 8/14/92. All Re: Declassification of documents.
OIC #224	DH #1	Undated	Chart	CIA Organization Chart.

TABLE OF CONTENTS

(continued)

Page

UNCLASSIFIED

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #225	PC #31	Undated	Facsimile Cover Sheet	From ████████ to Clark Re: TDs released to DOJ in 1990 and 1991.
OIC #226	PC #12	Undated	Index	BNL Classified Document Index.
OIC #227	TG #6	Undated	Handwritten Notes	Greenberg notes of meeting.
OIC #228	CA #1	10/89	State Dept. Cable	BNL matter should be raised to a "political level"
OIC #229	RM #8	10/14/92	Letter to Editor	Raphachon letter to editor of Washington Post: "Here's What Really Happened."
OIC #230	LK #8	9/9/92	Letter	From Stewart Baker to McDowell Re: NSA knowledge of BNL conduct.
OIC #231	LK #2	Undated	List	BNL list of relevant names.
OIC #301		Undated	Outline	Outline of 1/11/91 meeting between USAO and DOJ.
OIC #302		Undated	Facsimile Cover Sheet and Letter	Fax from ████████ to Meltzer (attaching 6/3/92 Bora letter).
OIC #303		1/28/91	Memorandum	From Clark to Taylor Re: Prosecution memorandum.
OIC #304		12/1/90	Rough Draft Memorandum	From Clark and Saylor to Urgenson Re: Proposed indictment.
OIC #305		10/19/90	Letter	From McKenzie to Blank Re: Matrix Churchill documents.
OIC #306		2/12/91	Letter	From Jameson to Richard Re: CIA traces.

TABLE OF CONTENTS

(continued)

Page

UNCLASSIFIED

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #307		8/19/90	Memorandum	From Dennis to Mueller Re: BNL investigation.
OIC #308		9/12/89	CIA Cable	[REDACTED]
OIC #309		10/5/89	CIA Cable	[REDACTED]
OIC #310		10/20/89	CIA Cable	[REDACTED]
OIC #311		12/18/89	State Department Cable	Italian Treasury Minister, Guido Carli, testifies before Italian Senate that at least one high-level BNL-Rome official knew of BNL-Atlanta's unauthorized extension of export credits to Iraq.
OIC #312		4/20/90	CIA Cable	[REDACTED]
OIC #313		2/22/91	CIA Cable	[REDACTED]
OIC #314		11/17/89	CIA Cable	[REDACTED]
OIC #315		11/24/89	CIA Cable	[REDACTED]

~~SECRET~~

TABLE OF CONTENTS

(continued)

Page

OIC AND INDIVIDUAL EXHIBITS DESCRIPTION LIST				
OIC'S EXHIBIT NUMBERS	INDIV. EXHIBIT NUMBERS	DATE OF DOCUMENT	TYPE OF DOCUMENT	ADDRESSOR/ADDRESSEE DESCRIPTION OF TEXT
OIC #316		11/27/89	CIA Cable	[REDACTED]
OIC #317		10/5/90	E-Mail	From Richard to Mueller Re: CIA material.
OIC #318		5/14/90	FBI Cable	Information in 4/20/90 cable was either known, anticipated, or immaterial to BNL prosecution, except for allegation of fraud by U.S. automobile corporation.
OIC #319			USAO Response	USAO response to questions raised by Judge Marvin Shook.

UNCLASSIFIED

TABLE OF CONTENTS

(continued)

Page

APPENDICES

DEPOSITIONS

VOLUME 1

[REDACTED]
James A. Baker
Stewart Baker
William P. Barr

VOLUME 2

Robert Berry
Gerrilyn Brill
Nancy Brinkac
Randy Chartash

VOLUME 3

[REDACTED]
Lawrence Eagleburger
John Frier

VOLUME 4

Theodore Greenberg
David Holmes
W. George Jameson
Lionel Kennedy

VOLUME 5

Gale McKenzie
Robert S. Mueller, III
[REDACTED]

VOLUME 6

Robert Peter
Mark Richard
Nicholas Rostow
Jerry Rubio
Rimantis Rukstele
Dennis Saylor

UNCLASSIFIED

TABLE OF CONTENTS
(continued)

Page

VOLUME 7

Richard Thornburger
Laurence A. Urgensen
Arthur Wade
[REDACTED]

UNCLASSIFIED

~~SECRET~~PART II
THE BNL CABLE STORY

UNCLASSIFIED

INTRODUCTION

Various Congressional Committees and others have made, or are making, inquiries as to whether the Department of Justice in Washington, D.C. ("DOJ"),¹ with the aid of the Central Intelligence Agency ("CIA"), deliberately withheld important information that may have affected the prosecution of employees of the Atlanta branch of Banca Nazionale del Lavoro ("BNL-Atlanta"). Specifically, it is alleged that they withheld information that individuals in the Rome headquarters of Banca Nazionale del Lavoro ("BNL-Rome") had contemporaneous knowledge of unlawful activities at BNL-Atlanta, and that the United States and Italian governments were also knowledgeable of, or even involved in, those activities. It is further alleged that this information was withheld from the Court presiding over the BNL matter, and from the prosecutors in the U.S. Attorney's Office in the Northern District of Georgia ("USAO").

To address those allegations, this part of my Report studies first, on pages 2 to 58, the initial requests for, and review of, intelligence information in the BNL case by the DOJ and the USAO from 1990 through August of 1992. Also examined is the process by which that information was gathered and disseminated by U.S. intelligence organizations, including the CIA, the Defense

¹As set forth in Part I, the use of the term "DOJ" in this Report is defined to include only Main Justice in Washington, D.C. and not the U.S. Attorney's Office in Atlanta, although the latter is very much a part of the Department of Justice. The Atlanta U.S. Attorney's Office will be referred to as "USAO."

~~SECRET~~

UNCLASSIFIED

Intelligence Agency ("DIA"), the National Security Agency ("NSA"), the National Security Council ("NSC") and the Department of State (collectively, the "Intelligence Community").

The Report then considers, on pages 59 to 94, the events that occurred in September 1992 that gave rise to the allegations at issue. Finally, the Report analyzes all these facts and reaches conclusions on pages 95 to 123. Although my analysis touches on other Departments and Agencies, I have focused on the conduct of the DOJ and the USAO.²

BACKGROUND

I. INITIAL CONTACTS BETWEEN DOJ AND THE USAO -- DECEMBER 1989 TO JUNE 1990

A. Early Review By DOJ

After the execution of search warrants at BNL-Atlanta on August 4, 1989, as is set forth in Part I of this Report, the Atlanta prosecutors established a Task Force made up of investigators from several different governmental agencies. This Task Force thereafter functioned as the investigative arm of the USAO and worked closely with that office."

In the Fall of 1989, the investigation proceeded with little contact between the DOJ and the USAO. Assistant to the Attorney General Robert S. Mueller, III ("Mueller") had some initial telephone discussions with the Atlanta prosecutors about the status of the case, but then ceased to have further involvement

²By necessity, there is some duplication between this Part II of the Report and Part I.

~~SECRET~~

UNCLASSIFIED

for some time. Theodore Greenberg, the Acting Chief of the Fraud section ("Greenberg"),³ was generally aware of the prosecution, but was told by Mark Richard, the Deputy Assistant Attorney General-OIA ("Richard"), that Richard was "handling" the case. (Greenberg Tr. 5-6; Clark Tr. 6.)⁴ Richard does not remember becoming involved until December 1989 or early 1990. (Richard Tr. 6.)

The USAO first requested the DOJ's assistance when Assistant U.S. Attorney Gale McKenzie ("McKenzie") wrote a memorandum, dated December 7, 1989, to Molly Warlow of the DOJ's Office of International Affairs, providing the names of four Iraqi nationals, who were targeted in the proposed indictment, for dissemination to the Intelligence Community. (OIC Ex. 90.) Sometime thereafter, Richard spoke with McKenzie about her proposal to travel to Turkey to interview witnesses, and to enter into a plea agreement with Entrade International, Ltd., a Turkish-owned, New York-based trading company. (Richard Tr. 6-7; Clark Tr. 4.) Richard was reluctant to endorse either proposal without a better grasp of the facts; thus on January 26, 1990, McKenzie sent a memorandum to Richard summarizing the status of the BNL investigation. (OIC Ex. 1; Richard Tr. 7; Clark Tr. 6-7; McKenzie Tr. 9-11.)

³The titles and positions of the individuals referred to in the text are applicable to the time being discussed, unless otherwise noted.

⁴The references to "Tr." are to the transcripts of stenographically recorded interviews conducted during this preliminary investigation. These transcripts are included in the Appendix to this Report III, Volumes 1-7, and are arranged alphabetically. Exhibits will be referred to as "OIC Ex.," for Office of Independent Counsel, with a reference to the appropriate exhibit number.

~~SECRET~~

UNCLASSIFIED

On January 31, 1990, DOJ Senior Litigation Counsel Peter Clark ("Clark") travelled to Atlanta at Richard's request to discuss the facts and the proposed theory of the case. The substance of that meeting is set forth in a memorandum from Clark to Greenberg dated February 12, 1990. (OIC Ex. 2; Richard Tr. 7-8; Greenberg Tr. 10, 11-12.) According to Greenberg, Clark also advised him orally that the USAO's investigation was inadequate at this point. (Clark Tr. 9-13; Greenberg Tr. 9-10, 12.)

DOJ's review of the BNL investigation continued through the Spring of 1990 during which time the USAO and DOJ held a series of meetings, attended at various times by Mueller, Laurence A. Urgenson, the new Chief of the Fraud Section ("Urgenson"), Richard, Greenberg, and Clark. (Clark Tr. 14, 26, 38; Greenberg Tr. 57-59; McKenzie Tr. 11-13.) According to Clark, one meeting in March lasted three days. (Clark Tr. 14.) On or about April 23, 1992, the USAO also sent a 100-page prosecution memorandum to DOJ, and it was circulated among attorneys there.

B. Initial Debate Regarding Whether BNL-Rome Knew

At each of these meetings, a principal issue discussed was whether BNL was a "victim" of unauthorized lending activity by Drogoul and other employees at BNL-Atlanta, or whether BNL officers outside of BNL-Atlanta had "contemporaneous" knowledge of that activity (that is, knowledge of the unauthorized loans prior to the August 4, 1989 execution of the search warrants). This issue, which was referred to in shorthand as whether "BNL-Rome knew," became the subject of heated debate. The USAO advanced the theory

~~SECRET~~

UNCLASSIFIED

that BNL-Rome was an unknowing victim, for reasons set forth in a February 23, 1990 memorandum from McKenzie to Rukstale and in the USAO's April 23 prosecution memorandum. (OIC Ex. 204, p. 3; OIC Ex. 4; McKenzie Tr. 20-23.)

Attorneys at DOJ were not convinced that the USAO's theory was correct. Richard and Greenberg, for example, were both skeptical about how BNL-Atlanta officials could have made such large loans without someone at BNL-Rome knowing of their activities, and they were not convinced that the investigation had been thorough enough to reach any firm conclusion on this issue. (Greenberg Tr. 52-57, 62; Richard Tr. 8-9, 10-12.) Clark not only thought that the investigation was inadequate and that the reasons in McKenzie's February 23 memorandum were unpersuasive, he also believed that the USAO was too dependent on the assistance of BNL-Rome's counsel on this issue. (Clark Tr. 29-37; Greenberg Tr. 63, 68-70.)

Clark's memorandum to Greenberg, summarizing his January 31, 1990 meeting with the USAO, expressed "serious reservations" about the prosecution theory that BNL was a victim of fraud.

Clark stated:

This [BNL-Atlanta off-book lending scheme] was the direct result of the actions of BNL officers and employees--whether or not instigated by Tedzeller or anyone else--and BNL is responsible for the actions of its officers and employees.

Clark added in a footnote:

The U.S. Attorney's office is very reluctant to charge BNL, primarily because the bank has cooperated fully in the investigation and has

~~SECRET~~

UNCLASSIFIED

questioned the theory under which the Department could charge BNL for the unauthorized acts of its officers and employees.

(OIC Ex. 2, p. 2 and fn. 5.)⁵

Clark's continuing reservations about "the knowledge or complicity of other BNL officers or employees (particularly in New York and Rome)" were expressed in a memorandum to Urgenson, dated May 9, 1990, that commented on the April 1990 prosecution memorandum. (OIC Ex. 5, p. 2.) (Emphasis in original.) Clark's memorandum again criticized the adequacy of the investigation as to BNL-Rome's knowledge, noting that the USAO had not yet completed the questioning of BNL's external or internal auditors.

Clark's memorandum also cited a report of the Central Bank of Italy, dated March 30, 1990, that was inconsistent with the USAO's position that BNL-Rome did not know. According to Clark's memorandum:

The CBI [Central Bank of Italy] report notes particularly that while the subject transactions were the result of deliberate malfeasance on the part of the Atlanta agency "they were perpetrated din [sic] an organizational context of inadequate auditing of the bank's North American branches" and that "[o]f special significance in this respect were the failure to create proper accounting procedures operations with correspondent banks. . . ." The correspondent bank transactions were the very mechanism by which the scheme was carried out and these transactions left the trail that

⁵The memorandum also noted that treatment of BNL-Rome as a victim might prevent the U.S. from bringing a civil action against BNL for losses on the CCC-guaranteed loans if Iraq ultimately defaulted on those loans. Mueller and Urgenson state that the DOJ's ultimate decision not to indict BNL-Rome was made independent of considerations of whether a civil recovery was available from BNL-Rome. (OIC Ex. 2, p. 3.)

~~SECRET~~

UNCLASSIFIED

could have been followed. . . . Given these conclusions by the CBI. . . . I have serious reservations that BNL the entity was not culpable or the adequacy of the USAO investigation which led to this conclusion.

(OIC Ex. 5, p. 3.)

As discussed below, this debate continued up until shortly before the Indictment was filed in February 1991.⁶

II. INITIAL DISCUSSIONS REGARDING REQUESTS FOR INTELLIGENCE COMMUNITY INFORMATION -- DECEMBER 1989 - AUGUST 1990

Against this background, the issue of intelligence information requests was first discussed at DOJ by Greenberg, Clark and Urgenson in February 1990.⁷ Greenberg recalled recommending that a meeting be held with representatives of all the U.S. intelligence agencies, in order to advise them of the investigation, to establish a thorough process for obtaining intelligence information, and to discover any potential "greymail" defenses to the prosecution. According to Greenberg, Urgenson advised him to hold off commencing this process, but Urgenson, did not remember giving any such instruction. (Greenberg Tr. 17-20, 22-23, 45-49,

⁶During 1990, relations between Clark and McKenzie became strained, which ultimately caused Clark to limit his involvement in the case by September 1992. One incident that created friction from Clark's point of view occurred during the three-day meeting in March 1990. Clark allegedly asked for a copy of a Federal Reserve report on the BNL scandal, and McKenzie responded that the Federal Reserve would not let them see that report. Clark later learned that this was incorrect. (Clark Tr. 40-44, 168; Greenberg Tr. 60, 63, 97.)

⁷As set forth above, the subject had been raised previously by the USAO in December 1989, when McKenzie wrote to OIA's Warlow providing the names of four Iraqi nationals for dissemination to the Intelligence Community. There is no record of a response to this request by DOJ or the Intelligence Community.

~~SECRET~~

~~SECRET~~

UNCLASSIFIED

86.) Urgenson noted that he relied heavily on the judgment of the DOJ's intelligence community experts, Greenberg and Clark, since he was a relative newcomer to DOJ. (Urgenson Tr. 58-60.)

Clark had a different recollection entirely. His position is that the USAO had the principal responsibility for handling the intelligence issue, and he characterized the involvement of DOJ in the BNL matter generally as "off and on." (Clark Tr. 25-28, 46-48; see Greenberg Tr. 41-44, 86.) A memorandum from Clark dated July 12, 1990 seems to support his recollection. The memorandum noted that intelligence inquiries should have been made much earlier, and that when Clark had previously asked the USAO about their efforts to obtain records from the Intelligence Community, he had been told that the FBI was handling the issue. Clark also stated that he had specifically asked McKenzie "whether Drogoul, his counsel, or anyone else had ever intimated that BNL-Atlanta's lending was caused or promoted by the U.S. government -- i.e., a potential 'greymail' defense -- and was told 'No'." (OIC Ex. 8, p. 1; Clark Tr. 57-63.)

By contrast, the USAO believed that DOJ had assumed responsibility for all Intelligence Community matters. (McKenzie Tr. 39-40; Greenberg Tr. 46; Wade Tr. 20; Rukstele Tr. 40-42.) For example, Rimantis Rukstele, then First Assistant U.S. Attorney for the Northern District of Georgia ("Rukstele"), specifically remembered that Urgenson requested Greenberg and Clark to handle the matter of gathering Intelligence Community information at a meeting in DOJ's Command Center in April 1990. (Rukstele Tr. 24-26.)

~~SECRET~~

UNCLASSIFIED

Rukstale believed that this assignment was appropriate because Greenberg and Clark had the required security clearances and experience in the Intelligence Community, unlike any members of the USAO, and both were also completely familiar with the issues involved in the BNL investigation and prosecution. (Rukstale Tr. 24-26.) Rukstale recalled:

One of the reasons that I wanted Fraud Section's participation and involvement in this case was precisely because they are in a better position to drive over to Langley and do what is necessary at Langley. They have the clearances. They've done it before. They know how to do it. It's much easier for them. Fraud Section was in a better position to take care of this than a line assistant working the case in Atlanta.⁸

Because McKenzie was otherwise occupied with an unrelated trial during the early summer of 1990, Rukstale sent a letter to Richard, dated July 3, with a copy to Urgenson, advising DOJ of the status of the BNL investigation and making certain requests of DOJ.⁹ (OIC Ex. 7; Rukstale Tr. 36-37.) Rukstale's July 3 letter did not request information on the specific issue of whether "BNL-Rome knew." Rather, it asked for intelligence on "what knowledge and role, if any, the Central Intelligence Agency had or played in

⁸These differing views as to who had ultimate responsibility for requesting, reviewing, and following up on intelligence information continued throughout this matter, as described below, and undoubtedly contributed to the confusion surrounding the events in September 1992.

⁹Rukstale's July 3 letter also stated that arrangements were being made to interview Wafai Dajani ("Dajani"), an associate of Christopher P. Drogoul ("Drogoul"), because Dajani had purportedly stated that "BNL-Rome knew" of irregularities in Atlanta.

~~SECRET~~

UNCLASSIFIED

BNL dealings with foreign governments in general and Iraq more specifically." The letter further stated:

I cannot over emphasize to you the importance of the answers to these questions to our overall investigation. As you well know, experience has demonstrated that CIA knowledge and participation can seriously impact a decision to prosecute.

(OIC Ex. 7, p. 2) As written, the letter appeared to focus more on "greymail" defense issues than on confirming or contradicting the USAO's theory that BNL-Rome was a "victim." (Clark Tr. 64-65; Greenberg Tr. 89-91; Rukstale Tr. 37-40.)

At Urgenson's request, Greenberg then contacted the intelligence agencies directly, starting with the CIA, in a memorandum, dated August 3, 1990, to [REDACTED] Assistant General Counsel, CIA [REDACTED]. Greenberg's inquiry was not limited to the issue of whether the CIA had any knowledge of, or participation in, BNL-Atlanta's unauthorized lending activity. He expanded the request to seek an "all component search" for any information that the CIA had regarding BNL by framing three broad areas of inquiry:

(i) to determine whether the CIA had any information about BNL (or certain individuals) generally, or whether the CIA had any relationship with them, or whether there were reasons that any of their indictments "should not be sought or would compromise intelligence equities";

(ii) confirmation on the death of a proposed defendant, Sadik H. Taha, Director General for Agreements and Loans, Central Bank of Iraq, an Iraqi national; and

(iii) information on whether BNL loan proceeds were used for the purchase of sidewinder

~~SECRET~~

UNCLASSIFIED

missiles and/or parts or technology for the Condor missile.

(OIC Ex. 10, p. 2; Clark Tr. 66; Greenberg Tr. 104-109.)

According to Greenberg, he made it very clear to [REDACTED] and W. George Jameson, Associate General Counsel at the CIA ("Jameson"), in telephone conversations, that his request included any information regarding whether "BNL-Rome knew." (Greenberg Tr. 109-113, 115; Clark Tr. 66.)

The requests were handled entirely by the Fraud Section of the DOJ's Criminal Division. At around this time, Mueller was generally aware of, but did not actively participate in, the requests for information from the Intelligence Community. He received a memorandum, dated August 19, 1990, from then-Assistant Attorney General Edward S.G. Dennis, Jr. that briefly described the facts of the case and the scope of the anticipated indictment, and stated: "At request of the (Atlanta) United States Attorney's Office, the Fraud Section is making appropriate inquiries to determine whether the Central Intelligence Agency knew of, or participated in, BNL's dealings with foreign governments and nationals."¹⁰ (OIC Ex. 307; Mueller Tr. 17.)

During the Spring of 1990, Urgenson attended meetings with State Department and NSC officials, including Nicholas Rostow, Special Assistant to the President and Legal Advisor, NSC. The purpose of these meetings was to keep the Intelligence Community

¹⁰A draft memorandum, dated August 13, 1990, from Dennis to William P. Barr, then-Deputy Attorney General, briefly summarized the status of the BNL case, but omitted any mention of CIA or Intelligence Community inquiries. (OIC Ex. 11.)

UNCLASSIFIED

informed of the status of the BNL case. According to the DOJ and USAO representatives who attended these meetings, there were no pressures or preferences, subtle or otherwise, expressed at these meetings to shape or limit the scope of the BNL Indictment." (Urgenson Tr. 43-47; McKenzie Tr. 25-28; Rukstale Tr. 30-34; Rostov Tr. 31-32.)

III. INFORMATION GATHERED AND DISSEMINATED BY THE INTELLIGENCE COMMUNITY -- SEPTEMBER 1989 - FEBRUARY 1991

The Intelligence Community had been gathering and disseminating information in the normal course regarding BNL-Atlanta's activities long before Greenberg's August 3, 1990 request to the CIA. This section of the Report examines the gathering and dissemination of information by the Intelligence Community in order to define the context in which specific information was ultimately transmitted by the DOJ in response to Greenberg's requests.

A. Intelligence Reports Gathered

[REDACTED] stated that the CIA became aware of the BNL scandal through media reports in September 1989, and began gathering information and submitting reports shortly thereafter. The first report was filed on September 12, 1989. [REDACTED] Tr. 5-6,

"OIC Ex. 6 describes the proposed agenda for such a meeting, scheduled for May 29, 1990 at the Old Executive Office Building. The location of the meeting was later changed to the State Department.

~~SECRET~~

UNCLASSIFIED

17-20.) In response, the CIA headquarters sent a cable dated 15 September 1989¹² [REDACTED] which stated: [REDACTED]

[REDACTED]

Over the next 17 months, [REDACTED] submitted a number of reports on the BNL scandal. [REDACTED]

[REDACTED] All reports were submitted to CIA headquarters for review and dissemination, although some reports were not disseminated outside the CIA for reasons discussed later in this Report.

[REDACTED] (Tr. 11, 17-20.) [REDACTED]

The Directorate of Intelligence ("DI") at the CIA was also following the BNL scandal, and was gathering information and preparing reports. [REDACTED], former Economic Analyst on Iraq, stated that she followed the BNL scandal by reading the daily

¹²This form of date and year is commonly used by the Intelligence Community in their cables and other intelligence information. Therefore, we are adopting that usage when referencing such materials within this Report.

¹³CIA headquarters circulated a cable dated 26 September 1989 [REDACTED] that listed a series of questions raised by the "unfolding" BNL scandal. (OIC Ex. 106.) On that same day, [REDACTED] sent a cable to headquarters [REDACTED] "attempting to respond to HQs requirements for reporting information on the current [BNL] scandal." The cable asked for guidance on whether to report on U.S. persons or domestic events, [REDACTED]

(OIC Ex. 105.) [REDACTED]

~~SECRET~~

~~SECRET~~

UNCLASSIFIED

electronic intelligence reporting, the newspapers, and some exclusive reporting from the Directorate of Operations ("DO") and the State Department. In late September or October 1991, [REDACTED] [REDACTED], also of the CIA, prepared a typescript¹⁴ dated 6 November 1989 (the "6 November Typescript") on the repercussions of the BNL scandal. [REDACTED] however, was not sure whether her information regarding what "BNL-Rome knew" was limited to press reports. ([REDACTED] Tr. 5-20.) [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] Single reports from both the DIA and the State Department, as well as some of the CIA reports, contained information on the issue of whether BNL officials outside of Atlanta knew about BNL-Atlanta's unauthorized loans to Iraq. In particular, ten intelligence reports between September 1989 (approximately one month after the August 4 search of BNL-Atlanta) and February 1991 (when the Drogoul indictment was returned) have been identified as suggesting that "BNL-Rome knew." The relevant portions of those cables are summarized as follows: [REDACTED] [REDACTED]

1. The 12 September 1989 DIA cable:

[REDACTED]

¹⁴A "typescript" is a finished intelligence memorandum prepared by the CIA's Directorate of Intelligence.

~~SECRET~~

UNCLASSIFIED

[REDACTED]

This information was submitted by [REDACTED]

(OIC Ex. 74.)

It is unclear whether the cable was disseminated outside the [REDACTED] at the time. [REDACTED]

2. The 12 September 1989 CIA operations cable:

(OIC Ex. 308.)

3. The 5 October 1989 CIA intelligence cable:

UNCLASSIFIED

4. The 20 October 1989 CIA intelligence cable:

This cable was submitted by the CIA's [REDACTED] and was disseminated on or around October 20, 1984 to the FBI and other governmental departments, but not the DOJ. (OIC Ex. 310.) [REDACTED]

5. The 6 November 1989 CIA Typescript:

This report was prepared by the CIA's Directorate of Intelligence and stated, inter alia, that: "BNL's North American headquarters in New York and the bank's directors in Rome publicly denied knowing about the letters of credit, although a BNL official in [REDACTED] claims he notified New York and Rome several times about the unusual activity in Atlanta, according to press reports. Press reports also indicate a BNL branch in Udine, Italy referred customers exporting to Iraq to the Atlanta branch." (OIC Ex. 14, p. 2.)

This typescript was sent to the Department of Agriculture on January 31, 1990 (see subparagraph 8, below), to Clark at DOJ on March 11, 1991. (OIC Ex. 14.)

~~SECRET~~

UNCLASSIFIED

6. The 18 December 1989 State Department cable:

This cable [REDACTED] stated that "[a]ccording to press reports, Treasury Minister Guido Carli confirmed during testimony before the Senate Finance Committee on December 14 that several employees in the [BNL] Rome office, including one high-level official, knew of the unauthorized extension of credits in favor of exports to Iraq by the Bank's branch in Atlanta. . . . The Rome connection was reportedly uncovered through a series of telexes and faxes between the Italian headquarters and the Atlanta branch . . . involv[ing] the Udine-based company Danieli's request for financing. . . ."

According to the header on the cable, it was disseminated to the DOJ on or about December 18, 1989. (OIC Ex. 311.)

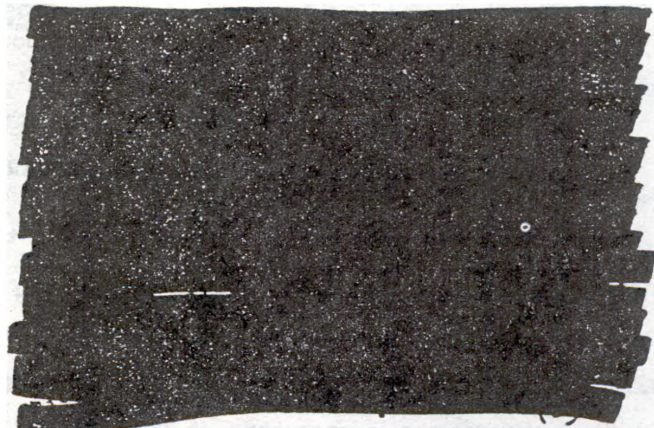
7. The 12 January 1990 CIA intelligence cable:


This cable was submitted [REDACTED] and was disseminated on or about January 12, 1990 to the FBI and other governmental departments, but not the DOJ. (OIC Ex. 59.) (C)

8. The 31 January 1990 CIA letter:

This letter from [REDACTED] of the CIA's Directorate of Intelligence, Iran-Iraq Branch, Persian Gulf Division, Office of Near Eastern and South Asian Analysis, to David Kunkel, Office of the General Sales Manager, Foreign Agricultural Service, Department of Agriculture, transmitted the 6 November Type-script (OIC Ex. 14) listed in subparagraph no. 5, above. The 31 January letter stated that "new information has come to light that. . . managers at BNL headquarters in Rome were involved in the scandal." [REDACTED]

This letter was not disseminated to the DOJ or the FBI until October 1992. (OIC Ex. 110.) [REDACTED]

9. The 20 April 1990 CIA intelligence cable:

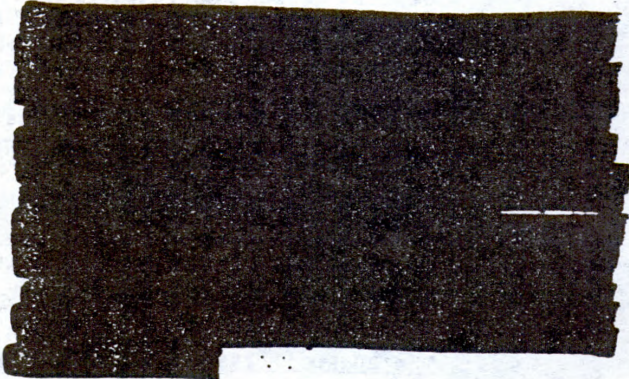
This cable was submitted [REDACTED] and was disseminated to the FBI, the DOJ and other governmental departments on or about April 20, 1990. (OIC Ex. 312.) [REDACTED]

UNCLASSIFIED

SECRET

UNCLASSIFIED

10. The 22 February 1991 CIA intelligence cable:



This cable was submitted by [redacted] and was disseminated to on or about February 22, 1991 to the DOJ, the FBI, and other governmental departments. (OIC Ex. 313.)¹⁶ [redacted]

8. Dissemination Of Intelligence Information To The DOJ And The FBI

As noted in the list above, some of this intelligence information was disseminated contemporaneously through normal channels to the FBI headquarters, to the FBI Atlanta field office (see items 3, 4, 7, 9 and 10), and to DOJ (see items 6, 9 and 10).¹⁷ However, the prosecutors at DOJ and in Atlanta who were working on the BNL investigation did not receive this information through those normal channels. The explanation for this lies in

¹⁶This cable is inaccurate. [redacted]

¹⁷The CIA says that the failure to disseminate the other cables to the DOJ at the time was either an oversight or viewed as unnecessary because the other cables had been sent to the FBI. [redacted] (Tr. 63-64.) [redacted]

~~SECRET~~

UNCLASSIFIED

the way intelligence information is normally received and routed by the DOJ and the FBI when it is received from the Intelligence Community, and the limitations on who may review this information.

1. Routing Cables At the DOJ

Intelligence Community reports that are disseminated to the DOJ electronically are sent to either the DOJ Message Center in the basement of the DOJ Building in Washington, or to the Command Center on the sixth floor.¹⁸ The Command Center receives all cables that are "Top Secret - Codeword" or that concern emergency or "crisis" matters. Cables on routine matters are sent to the Message Center even if they are classified "Top Secret," "Secret," or "Confidential." (Rubino Tr. 7, 19-21.)

When a cable is received electronically at the DOJ, it is printed out and then routed by the Message Center or Command Center to the particular division or attorney within the DOJ to whom the cable is addressed. If the cable does not indicate which particular division or attorney should receive the information, the Message Center or Command Center staff exercises its judgment on who should receive the information based on the subject matter of the cable. Jerry Rubino ("Rubino"), Chief of Security at the DOJ, states that the Command Center staff has sufficient experience to know where to route all emergency or top secret-codeword cables, and to ensure that whoever receives the cables has the proper clearance. (Rubino Tr. 12-14, 19, 21, 24.) I regard this

¹⁸Intelligence Community information is also received by individual DOJ attorneys by mail or by courier.

~~SECRET~~

UNCLASSIFIED

assurance with skepticism, however. Further, there is no evidence that the Message Center, which receives numerous cables every day on routine matters, has the same ability to route cables properly.

The DOJ cannot confirm whether the cables at issue were properly routed in the September 1989 - February 1991 period. The Command Center has a hard-copy and computer log for every cable received and routed within the DOJ, and retains that log for only one year. The Message Center retains a log for just 30 days. There is no central records repository where cables are catalogued and filed after they have been routed within the DOJ. (Rubino Tr. 9-11, 24.)

No one in the Fraud Section of the Criminal Division at DOJ recalls receiving the intelligence information listed in Items 8 and 9 above, even though Item 9 indicates that it was disseminated to DOJ. Richard recalls having received numerous cables on a regular basis as part of his responsibilities in international affairs, but he has no recollection or record of receiving any cables concerning BNL. (Clark Tr. 48, 52; Richard Tr. 20-25, 28-32.) The Atlanta prosecutors did not have security clearance to review classified information until April 1991, and accordingly they did not receive these cables when they were disseminated. (McKenzie Tr. 39, 56.)

2. Routing Cables At the FBI

The process for routing cables at the FBI in the September 1989 - February 1991 period was more structured. The cables were received electronically at the FBI Communications

~~SECRET~~

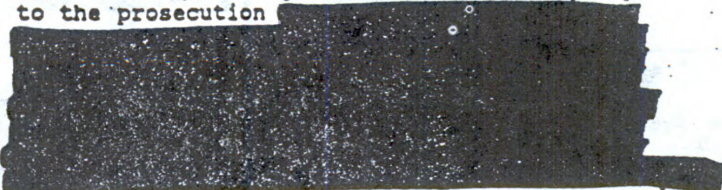
UNCLASSIFIED

center, and routed in hard copy form to the specific individual or entity identified on the "pass line."¹⁹ If no person or entity was identified, the cable was routed according to the unit or section most likely to be involved in the subject matter of the cable. The Unit or Section Chief in turn forwarded the cable to the appropriate Supervisory Special Agent. Any of these persons could forward the information to another unit or section or to a field office. The information could also be marked for indexing and storage on a computer by the Information Services Section, and later be retrieved by searching for the date, the sender, or the subject matter. Hard copies of all cables were eventually stored according to general subject matter in the central records system at FBI headquarters. The FBI's review of these hard copies shows that the CIA cables listed as Items 3, 4, and 6 above were routed to Division 6 (Criminal) at headquarters, and to the Atlanta field office (no indication as to any individual).²⁰

¹⁹After October 7, 1991, Top Secret or compartmented information was sent to the Special File Room, where a control form was attached to establish the chain of custody.

²⁰The FBI headquarters files show that at least one CIA cable, dated 20 April 1990, was followed up on by Gregory D. Meacham, Supervisory Special Agent, FBI, who sent a teletype to the Legal Attaché in Rome on May 14, 1990. That teletype stated in part:

The information contained in [the cable] was either known, anticipated, or immaterial [sic] to the prosecution



~~SECRET~~

UNCLASSIFIED

C. Non-Dissemination of Certain Cables

Four CIA intelligence cables were never disseminated outside the CIA, even though they were submitted [REDACTED] for dissemination by headquarters. Those cables are: [REDACTED]

1. The 17 November 1989 CIA intelligence cable:

[REDACTED]

(OIC Ex. 314.)

2. The 24 November 1989 CIA intelligence cable:

[REDACTED]

(OIC Ex. 315.)

3. The 27 November 1989 CIA intelligence cable:

[REDACTED]

[REDACTED] (OIC Ex. 318.) [REDACTED]

Robert Peter, [REDACTED] remembers receiving this teletype and thinking that FBI headquarters was on top of the relevant CIA traffic regarding BNL. (Peter Tr. 39-43.)

~~SECRET~~

(OIC Ex. 316.)

4. The 7 December 1990 CIA intelligence cable:

(OIC Ex. 108.)

The CIA operational cable [REDACTED] accompanying the 17 November 1989 intelligence report [REDACTED] states that the FBI "Legat" [REDACTED] had advised [REDACTED] that the report was "discoverable" and could conceivably result in the source of the information being called as a witness in the BNL trial in Atlanta. [REDACTED] asked for comments from headquarters on this advice. Similarly, the CIA's operational cable [REDACTED] accompanying the 7 December 1990 intelligence report [REDACTED] states that: "'Legat' officer recommended against submission of the [report] noting that every paragraph contains damaging information which is 'clearly discoverable.'" (OIC Ex. 103; [REDACTED] Tr. 55-62, 69-74.) [REDACTED]

[REDACTED] who prepared these cables, stated that the Assistant FBI "Legat" did in fact give this advice, but that [REDACTED]

UNCLASSIFIED

~~SECRET~~

UNCLASSIFIED

██████████ nonetheless recommended dissemination. ██████████ did not consider this advice to be pressure or influence to withhold or conceal intelligence information regarding the BNL scandal.

██████████ (Tr. 6-17.) Peter denied ever having suggested that CIA intelligence reports not be submitted. He stated that he simply advised that discoverability of intelligence information was a possibility given the existence of an ongoing criminal proceeding, and he never believed that this would result in the intelligence not being disseminated. (Peter Tr. 26-27, 32-33, 62-68.) ██████████

██████████ the Deputy Reports Officer at CIA headquarters, testified that the only reason the three 1989 intelligence reports listed above were not disseminated was because they reflected information already reported in the London Financial Times newspaper, and that the 1990 intelligence report listed above was factually unsupported. She denied that the CIA withheld any reports from dissemination based on pressure or influence by the FBI "Legatt" ██████████ or by anyone else at DOJ. ██████████ (Tr. 27-32, 36-41.) ██████████

██████████ testimony is supported by the cables that CIA headquarters was sending ██████████ at the time. Specifically, a cable dated 14 December 1989 ██████████ from CIA headquarters advises ██████████ that the 17 November ██████████, 24 November ██████████, and 27 November ██████████ 1989 intelligence cables would not be disseminated because they repeated information already reported by the London Financial Times. (This 14 December 1989 cable also notes that the "discoverability" of

~~SECRET~~

UNCLASSIFIED

intelligence was not a real concern.) Similarly, a cable dated 21 December 1990 [REDACTED] states that headquarters had decided not to disseminate the 7 December 1990 intelligence report because the source "did not appear to have any factual foundation for these allegations. We would be very interested in reporting on this topic if station is able to obtain more detail. . . ." (OIC Ex. 104; [REDACTED] Tr. 58-62, 69-75; [REDACTED] Tr. 21-22.) [REDACTED]

IV. DOJ RECEIVES INTELLIGENCE INFORMATION FROM THE CIA, IN RESPONSE TO ITS INITIAL REQUESTS -- AUGUST 1990 - OCTOBER 1990

Having described the intelligence information actually gathered and disseminated in the normal course on the subject of whether or not "BNL-Rome knew," I shall now turn to the specific requests by the DOJ for intelligence information in the BNL investigation.

A. The CIA's August 24 Interim Response

The CIA provided an "interim response" in a letter, dated August 24, 1990, from Jameson to DOJ's Greenberg. (OIC Ex. 15) The letter stated that a "preliminary review" had found a "significant amount of information" relating to three of the individual names Greenberg had provided, a "limited amount of information" as to twelve of the names, no information as to ten of the names, and that it was not yet clear whether the CIA had operational relationships with any of the names. The letter further stated that additional information would be provided once "component processing" had been completed. Jameson stated that the current situation in

~~SECRET~~

UNCLASSIFIED

Iraq had caused CIA offices to be "quite busy" and made it difficult for a faster response, but Jameson noted that an earlier response would be possible if Greenberg had any specific questions. (OIC Ex. 15.)

Although the DOJ's August 3, 1990 memorandum request had been addressed to [REDACTED], Jameson had received the memorandum from [REDACTED] and believes he assigned the project to a paralegal, [REDACTED]. Jameson viewed the DOJ's BNL request as "routine" and he did not review any of the information obtained by the CIA in its search. In signing the August 24, 1990 "interim response" letter, Jameson apparently took it for granted that [REDACTED] had contacted the appropriate CIA components and had properly executed the search.²¹ (Jameson Tr. 15-22, 24-25.)

Greenberg wrote an E-Mail to Urgenson on August 24, 1990 summarizing information that he had received from Jameson's "interim response." (OIC Ex. 12.) Greenberg's memorandum noted:

CIA will process the materials as soon as possible, but, given the situation in Iraq they don't feel they will be able to finish until early September. Baring [sic] some exigent circumstance on our part I suggest we do not press them at this time. (OIC Ex. 12, p. 1.)

²¹Jameson is not completely certain that he assigned the project to [REDACTED] although he refers to [REDACTED] in his letter to Greenberg. According to Jameson, it was not unusual for attorneys within the CIA's Office of General Counsel ("OGC") to have letters for their signatures prepared by subordinates and for attorneys to sign such letters without detailed review. The general philosophy in the OGC was that "you don't want to micro-manage staff" and, in the metaphor of General Counsel Elizabeth Rindskopf, "we want thoroughbreds and we want . . . to let them run." (Jameson Tr. 73-74.)

SECRET

~~SECRET~~

UNCLASSIFIED

B. The CIA's October 2 Response

By letter to Greenberg dated October 2, 1990, Jameson supplemented the CIA's earlier response by citing certain information "relating to BNL transactions in financing activities in Iraq" and annexing classified exhibits in response to Greenberg's request for information on the named individuals. (OIC Exs. 17 and 18, respectively.)²² The classified exhibits included responses in connection with the names provided by Greenberg and referred to 28 "intell reports" (or cables) that "may be passed on to Justice." (OIC Ex. 18, pp. 1-2, 5-7, 9-11.) The October 2, 1990 letter also referred to the existence of classified documents originated by the State Department, NSA and DIA.²³

An E-Mail from Richard to Mueller dated October 5, 1990 suggests that DOJ was also aware of the CIA cables that came in the October 2 response. The E-Mail reads:

What a way to start the day - Greenberg tells me he has received some interesting material from CIA which he wants to bring to our attention. Just an alert.

(OIC Ex. 317.) Neither Greenberg nor Richard remembered reviewing any CIA materials with Mueller at the time.

²²As with the CIA's August 24 "interim response," Jameson did not personally review any of the information gathered by the CIA. A distribution list attached to Jameson's copy of his October 2 letter to Greenberg indicates that the letter was prepared by [redacted] for Jameson's signature. (Jameson Tr. 28-31.)

²³The CIA was unable to provide the DOJ with such documents because of the "third agency rule," which provides that only the originating agency can disseminate its documents. [redacted] Tr. 31-32; Jameson Tr. 33-34, 36.)

~~SECRET~~

UNCLASSIFIED

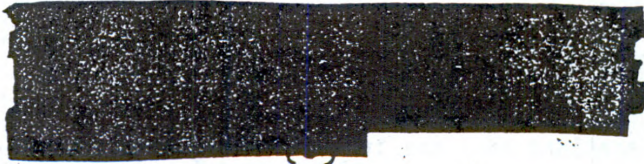
Although Greenberg and Clark generally remembered reviewing intelligence materials attached to this CIA letter, they do not recall which specific information they reviewed.²⁴ Greenberg's review seems to be confirmed by the fact that Urgenson recalls taking notes on information provided by Greenberg regarding the CIA's October 2 response that same day. Urgenson's typed notes included the following observations:

3. 4. 5. 6. 

²⁴Greenberg, who recalls having seen the CIA cables dated 5 October 1989, 12 January 1990, and 20 October 1989 that are referred to above, has no recollection of having seen the other intelligence information suggesting that "BNL-Rome knew." (Greenberg Tr. 120-143.) Similarly, Clark recalls having reviewed all the CIA cables provided back in that time frame, but has no recollection of any specific cables. Clark is fairly sure that all the CIA cables received on October 2, 1990 are listed on the April 1992 index prepared by Nancy Brinkac. (Clark Tr. 76-85, 95-106.)

~~SECRET~~

UNCLASSIFIED



(OIC Ex. 12.)

Although Urgenson could not recall seeing specific CIA cables, his notes suggest that on October 2, 1990, Greenberg informed him of the substance of at least four CIA intelligence cables dated 15 September 1989, 12 January 1990, 5 October 1989, and 20 April 1990, respectively. The last three cables suggest that some BNL-Rome officials may have had contemporaneous knowledge of the unauthorized loans by BNL-Atlanta.

V. ADDITIONAL DOJ REQUESTS FOR INTELLIGENCE INFORMATION FROM ALL THE AGENCIES, AND RESPONSES TO THOSE REQUESTS -- OCTOBER 1990 -- MARCH 1991

A. The DOJ Letter Requests

Greenberg followed up on Jameson's October 2 response that, inter alia, referred to documents originated by other agencies (i.e., the "third agency rule"). He sent letters, dated October 8, 1990, to Jameson at the CIA (OIC Ex. 20), William J. Allard, General Counsel, at the DIA (OIC Ex. 70), and to the NSC and State Department. In addition, Greenberg sent a similar letter request for BNL-related information to the NSA on October 12, 1990.²⁵

²⁵Greenberg sent the October 8 letter to Jameson at the CIA as well, just to be sure that the search was as complete as possible. (Greenberg Tr. 161.)

~~SECRET~~

UNCLASSIFIED

Greenberg's October 8 and October 12 letters broadly requested "any information . . . relating to BNL, its Atlanta agency operations, and the Italian and Iraqi governments," among other things. The letters also sought information about those agencies' relationships with 31 listed individuals and companies and "whether BNL funds were used directly or indirectly for the purchase of implements of war or dual use items which can be used in the manufacture of implements of war." Finally, the letters updated the list of individual names that Greenberg had sent to the CIA with his August 3 letter, and it limited the search to the time period beginning March 1986. Greenberg believed that these broad requests also called for information on whether BNL-Rome knew, as well as many other subjects. (Clark Tr. 109-110; Greenberg Tr. 114-115, 162-163.)

B. The CIA's Supplemental Response - December 1990

On December 18, 1990, the CIA wrote a third response letter to Greenberg as part of its overall response to the DOJ inquiries for BNL intelligence information and, specifically, Greenberg's October 8 letter. (OIC Ex. 61.) The December 18 letter reiterated that the CIA had received cables disseminated by the State Department, and that it was referring those cables to the State Department for its further review and a direct response to Greenberg's requests at DOJ.²⁶ In total, the CIA provided over 100

²⁶In letters dated October 19 and December 19, 1990, the CIA referred such cables to the State Department and DIA. (OIC Ex. 76.)

UNCLASSIFIED

cables, intelligence reports and summaries to the DOJ in response to the Greenberg requests. However, most of those cables did not relate to the issue of whether "BNL-Rome knew."

C. The DIA Response - November 1990

The DIA provided an interim response to Greenberg's October 8 request by letter, dated November 23, 1990, from Terry E. Bathen, Assistant General Counsel ("Bathen"). (OIC Ex. 73.) Bathen had received the assignment to prepare the DIA's response from Robert H. Berry, Jr., Deputy General Counsel ("Berry"). Bathen's letter to Greenberg included three intelligence reports that the DIA considered responsive. (OIC Ex. 74)

One of those reports, as discussed above, was a cable prepared by [REDACTED] bearing serial number [REDACTED] and dated September 12, 1989 [REDACTED]

[REDACTED] 27 [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

²⁷According to Berry, [REDACTED] was "over classified" as "secret specat" (special category), a designation reserved for reports of greater national security concern. (Berry Tr. 15-16.)

~~TOP SECRET~~

UNCLASSIFIED

(OIC Ex. 74.)

[redacted] drew the interest of Greenberg and Clark at DOJ and they arranged to meet with [redacted] and Bathen in January 1991. (Berry Tr. 17, 21-23, 34-37.) Bathen's memorandum of that meeting, dated January 18, 1991, indicates that [redacted] said he may have written a second report or draft on the issue. (OIC Ex. 81.) The DIA conducted a search for a second such report or draft, but found nothing on file. Bathen later told Berry that when he told [redacted] that the DIA had been unable to locate any drafts of such a second report, [redacted] expressed uncertainty as to whether he had in fact written such a report. (Berry Tr. 35-36.) After that meeting, Greenberg and Clark believed that [redacted] had inflated the extent of his source's knowledge and did not believe the [redacted] report to be significant. (Berry Tr. 17; Clark Tr. 121.) According to Berry, Bathen reached the same conclusion from the meeting. (Berry Tr. 16-17.)

The DIA also provided a supplemental response by two letters, dated January 2, 1991, from Bathen to Greenberg, that transmitted a total of six cables. (OIC Exs. 79 and 80.) Bathen sent two letters on the same date because one enclosed five cables labeled "Classified" (OIC Ex. 79, with enclosures) and a separate letter transmitted a cable labeled "Top Secret--SCI" (OIC Ex. 80, with enclosure). None of the six cables is relevant to the issue of whether BNL-Rome had contemporaneous knowledge of the unlawful activities at BNL-Atlanta.

~~SECRET~~

UNCLASSIFIED

D. The State Department Response - December 1990

The State Department responded to Greenberg's October 8 information request with a letter dated December 18, 1990. The letter asserted that the State Department had gathered a "number of possibly relevant documents." Over 100 intelligence reports were ultimately provided to the DOJ from the State Department.²⁴ Clark reviewed these State Department intelligence reports in Washington, although he did not remember precisely when; and the prosecutors transported the cables to Atlanta in April 1992 the cables for their review. (Clark Tr. 119.) Most of these cables did not relate to whether "BNL-Rome knew."

E. The NSA Response - December 1990

In response to Greenberg's October 8 requests, NSA conducted a broad search of the data-base most likely to contain information regarding BNL, and discovered a number of reports of intercepted communications it thought were responsive. At some point in December 1989, J. Lionel Kennedy, an attorney at NSA supervising this search, orally advised Clark or Greenberg that those reports were available for their review. On December 27,

²⁴A State Department internal memorandum from "L." (the Legal Department) to "File," dated January 2, 1990, records that DOJ's Clark received from the State Department 32 cables that were referred by the CIA, 3 cables from State Department's own files, and 48 documents retrieved by Frank Machak of FAIM. Such documents were transmitted to Clark from the State Department with a cover memorandum, also dated January 2, 1990. According to all available documents and testimony, the dates in both memoranda appear to be inaccurate (i.e., 1990 instead of 1991). A possible explanation may be that the author of the memoranda at the State Department, writing just after the new year (January 2), inadvertently used the previous year in dating the memoranda.

UNCLASSIFIED

Clark and Greenberg visited NSA to review these reports and went through most of the material. Kennedy expected them to return the following week to continue their review, but never heard back from them. Kennedy was fairly sure that Clark and Greenberg did not complete their review of the NSA reports, and Greenberg confirmed that impression.²⁹ (Kennedy Tr. 7-26; Clark Tr. 121; Greenberg Tr. 179-185). There is no record that anyone at the DOJ ever went back to complete the review. (Kennedy Tr. 24-26.)

F. The NSC Response - November 1990

On November 29, 1990, Greenberg reviewed the NSC materials responsive to his requests which were related to "foreign policy" issues, such as loans to Iraq. They contained no information on the subject of whether BNL-Rome knew, or whether the intelligence agencies had contemporaneous knowledge of BNL-Atlanta's unauthorized loans. (OIC Ex. 202; Greenberg Tr. 167-173.) Clark did not recall reviewing any NSC documents (Clark Tr. 121.)

²⁹FBI agents reviewed all these NSA reports again in connection with this investigation, and found nothing on the subject of BNL-Rome's contemporaneous knowledge of BNL-Atlanta activities. Similarly, they found nothing bearing on any knowledge of U.S. intelligence agencies of the BNL scandal or their involvement therein.

UNCLASSIFIED

VI. COMMUNICATIONS WITHIN THE DOJ REGARDING INTELLIGENCE INFORMATION -- OCTOBER - DECEMBER 1990

In June 1990, DOJ clearly took responsibility for coordinating all the requests made to the Intelligence Community regarding the BNL investigation and the gathering of responsive materials. However, there is some disagreement as to who had the ultimate responsibility for reviewing, analyzing, and following up on the information received.

Clark stated that he conducted an initial review of the intelligence information and did some follow-up, as described above.³⁰ He further stated that he probably told the USAO that, in his opinion, the intelligence information was mostly speculative or did not establish "contemporaneous knowledge" by BNL-Rome. However, Clark insists that he told the USAO that they had to look at the information for themselves, and that they should do their own analysis and follow-up. Clark denies that he ever reached any firm conclusions about this material. In Clark's view, the USAO had much greater familiarity with the facts, and could better determine what intelligence information was useful. (Clark Tr.

³⁰Greenberg believed that very little follow-up was done on any of the intelligence information, even though such follow-up would have been routine. He assumed that Clark would conduct such follow-up "when appropriate," but certainly before the indictment. Greenberg did not believe he was responsible for these tasks, because he was becoming less and less involved in the BNL matter. (Greenberg Tr. 144-154.) Mueller noted, however, that prosecutors did not traditionally focus on leads from intelligence sources as being particularly productive, for a variety of reasons. (Mueller Tr. 36-38.)

~~SECRET~~

UNCLASSIFIED

122-126, 127-130, 138-139, 152.)³¹ I must note, however, that within DOJ, Clark was the most knowledgeable about the BNL matter.

By contrast, the USAO believed that Greenberg and Clark had assumed responsibility for reviewing this intelligence information. As Rukstale stated:

Clark lived with this case for months. And he's a bright guy. And I have all the confidence in the world in him to look at a CIA document and say, this impacts on the indictment, or this doesn't impact on the indictment.

(Rukstale Tr. 53.) McKenzie, Rukstale and Wade each recall that Clark stated that he and Greenberg had reviewed responsive material from the intelligence agencies and determined that the information compiled would not affect or influence the proposed expanded indictment. (McKenzie Tr. 57-60; Wade Tr. 34-37; Rukstale Tr. 49-54.) Moreover, the USAO thought that its reliance on Greenberg and Clark was justified because both had greater experience in the Intelligence Community, the appropriate security clearances, familiarity with the facts and issues in the BNL case, and both had been given the assignment by Urgenson at the April 1990 meeting at DOJ's Command Center. (McKenzie Tr. 54-60; Rukstale Tr. 43-53.)

³¹ Clark's version seems to be supported by a memorandum dated December 6, 1990 from Clark to McKenzie that discussed Clark's work on the indictment and advised that "some of the CIA materials are here and can be reviewed by you at any time." (OIC Ex. 29.) Clark's memorandum also stated that additional CIA, State Department and DIA responses were expected. Clark also informed Urgenson in a memorandum, dated December 7, 1990, that BNL-related materials from CIA, DIA, State Department, and NSA would be available for the USAO's inspection at DOJ within two weeks. (OIC Ex. 27.)

~~UNCLASSIFIED~~

Letters and memoranda from McKenzie to DOJ in the Fall of 1990 appear to support the USAO's view that DOJ had the responsibility for handling Intelligence Community issues. McKenzie wrote a memorandum to Greenberg, dated October 9, 1990 (OIC Ex. 91), and a letter dated October 15, 1990, to Urgenson (OIC Ex. 21) seeking general intelligence information (not specifically focused on BNL-Rome's knowledge), that she believed "could impact the final scheme draft [of the indictment]."³² (OIC Ex. 21.) McKenzie wrote Urgenson again on December 10, 1990, repeating the requests for information on U.S. government involvement in the BNL-Atlanta activities. (OIC Ex. 28.) Among other things, McKenzie's letter sought a written response to inquiries concerning:

(a) Whether the unauthorized BNL-Atlanta funding was orchestrated, approved or directed by any facet of the U.S. intelligence or counter Intelligence Community prior to August 4, 1989; (and)

(b) Whether any facet of the U.S. Intelligence Community had any knowledge of illegal activities at BNL-Atlanta prior to August 4,

³²McKenzie and Rukstale also submitted a status report to Mueller, dated October 1, 1990, to supplement the April 1990 prosecution memorandum. The status report again raised the question about the knowledge of the U.S. Intelligence Community, but it is unclear to whom the issues were assigned:

Unanswered questions exist about the size, sophistication and activities of the Iraqi procurement network discovered during the investigation. Concern centers on what knowledge, if any, the U.S. intelligence and counter-intelligence agencies possessed and any assistance provided to the Iraqi network by the U.S.

(OIC Ex. 16, p. 14)

~~SECRET~~

UNCLASSIFIED

1989, and if so, what did they know and when did they know it.¹³

(OIC Ex. 28, p. 1.)

Similarly, a January 28, 1991 memorandum from Clark to Taylor reflects that Clark was directly involved in the drafting of a new prosecution memorandum, even to the point of directing the precise language to be put into that memorandum concerning intelligence information received by DOJ. The January 28 memorandum thus shows that Clark was more involved in the overall BNL matter than he now recalls. (OIC Ex. 303; Clark Tr. 138.)

In any event, it does not appear that anyone from the USAO Task Force reviewed any of the intelligence information prior to the indictment being returned on February 28, 1991. (McKenzie Tr. 67-69.) Thus, at that point, the USAO must have been relying upon the review by DOJ, regardless of whether that reliance was justified or whether further review was necessary. Clark did not believe that any of the intelligence information that he reviewed "indicated with any degree of certainty that BNL-Rome or BNL management outside of Atlanta was culpable and aware." (Clark Tr. 126-127; Greenberg Tr. 199.) Clark also believed that the Task

¹³McKenzie also wrote a letter, dated October 19, 1990, to Wendy Blank in the Office of International Affairs, DOJ, and sought access to documents seized by the British in the case against Matrix-Churchill, TDG, TMG and certain individuals. (OIC Ex. 305.)

~~SECRET~~

UNCLASSIFIED

force already resolved the possible leads raised in the cables.³⁴
(Clark Tr. 90-94; 100-106.)

VII. FURTHER DEBATE ON WHETHER BNL-ROME KNEW -- OCTOBER 1990 -
FEBRUARY 1991

Even though the USAO continued to advocate in its October 1990 prosecution memorandum that BNL-Rome was a victim of the BNL-Atlanta scheme, DOJ was still not convinced.³⁵ A November 13, 1990 memorandum to Urgenson from Clark recounted a meeting he had in New York with officials at the Federal Reserve regarding BNL. (OIC Ex. 23.) In the memorandum, Clark described a number of documents containing information that suggested "BNL-Rome knew," and raising leads that he had not been aware of and that had not (to his knowledge) been pursued in Atlanta.³⁶ (Clark Tr. 115-117.)

The November 13 Clark memorandum resulted in a six-page letter from Urgenson to Rukstele, dated November 15, 1990, which raised a series of questions as to the involvement of BNL management outside Atlanta, and asked what steps had been taken to follow up various leads. (OIC Ex. 24.) The Clark memorandum also

³⁴Given Clark's strong feelings, even up to the eve of the Indictment's return, it would appear that had intelligence information supported his view, he would have disclosed this supportive evidence to the USAO and the DOJ.

³⁵In an October 1, 1990 status report to Mueller, Rukstele said that "final approval of the proposed indictment must be secured from . . . Department of State and National Security Council." (OIC Ex. 16.) Mueller disagreed with this statement, saying neither agency had the right to approve this Indictment. (Mueller Tr. 20-21.)

³⁶On December 1, Clark raised this question again in a rough draft memorandum to Urgenson concerning the latest draft indictment proposed by the Atlanta USAO. (OIC Ex. 304.)

~~SECRET~~

UNCLASS.

prompted Urgenson to write a memorandum to Mueller, dated Nov 30, 1990, stating that:

In brief, our review continues to raise significant questions concerning the completeness of the U.S. Attorney's investigation on the central issue of whether Banca Nazionale del Lavoro (BNL) was an unwitting victim of a scheme to defraud. I am sending . . . Clark and . . . Taylor to Atlanta next Monday to review all memoranda of interviews and the documentary evidence the U.S. Attorney intends to use in its case chief as well as to develop a list of witnesses (U.S. and Italian) who should be called before a grand jury.

(OIC Ex. 26.)

On January 11, 1991, members of the USAO and Task Force (Ruckstele, McKenzie, AUSA Kent Alexander, Brill, and Agent Wade) met with attorneys from DOJ (Urgenson, Clark and Taylor) to discuss the status of the case. An outline of the agenda for that meeting shows that the USAO made presentations on several issues in this case, including a discussion by AUSA Alexander on the "importance of indicting the case as a scheme to defraud." Two of the points on the outline for this topic were:

7. Congressional scrutiny and likely charges of a cover-up.
8. Media scrutiny and likely charges of a cover-up.

(OIC Ex. 301.) Next to these points is handwriting that appears to say "State-Italian protest."

At the January 11 meeting, it was agreed that, among other things, the USAO would [REDACTED]

[REDACTED] Clark and Taylor spent a week in

~~SECRET~~

UNCLASSIFIED

Atlanta between January 25 and January 31 helping the USAO prosecutors complete these tasks.³⁷ (Clark Tr. 141.)

Following [REDACTED] and review of documents, the DOJ finally accepted the view that neither BNL-Rome nor its employees should be indicted. On February 1, 1991, Urgenson wrote a memorandum to Mueller stating that, after this work, he concurred with the USAO's recommendation that BNL-Rome be treated as a victim. (OIC Ex. 32; Urgenson Tr. 145-146; Clark 143-151.) While Clark concurred in that recommendation, he still had doubts, and wrote a memorandum to the file that same day raising questions as to whether BNL-Rome knew or should have known of the BNL-Atlanta scheme, particularly in light of an article dated February 20, 1988 in the Middle East Economic Digest ("MEED"). (OIC Ex. 33.) (Two days later, Drogoul and Von Wedel executed the first of the four MTLs with the Iraqis.) The MEED article stated, among other things, that BNL-Atlanta had committed to financing many hundreds of millions of Commodity Credit Corporation loans to Iraq, and that BNL was highly exposed to Iraqi risk. (OIC Ex. 203; Clark Tr. 145-150.)

Greenberg stated that the DOJ attorneys retained concerns about the case that were never completely satisfied. In his view, the interviews of the Italians never fully resolved some basic issues, and certain avenues of inquiry were not "pushed."

³⁷On or about January 15, 1991, Rukstele announced that, effective February 15, 1992, he would become First Assistant U.S. Attorney in Las Vegas, NV, where he was before Atlanta, and thereafter, he would no longer actively be involved in the BNL case. (Rukstele Tr. 60-62.)

~~SECRET~~

UNCLASSIFIED

(Greenberg Tr. 202-203.) However, Greenberg pointed out that he was not closely involved in the case at that point. (Greenberg Tr. 203-204.)

Whether or not the USAO or DOJ attorneys harbored private doubts about BNL-Rome's ignorance of BNL-Atlanta's activities, all agreed that there was insufficient evidence at that time to warrant an indictment against BNL-Rome. Clark did not believe that any of the intelligence information was "probative" on this issue. (Clark Tr. 152, 126-127.) He stated that the USAO could have been more diligent in reviewing the available intelligence information; however, he did not think that a more diligent review would have resulted in a different conclusion. He also said that he did not believe that the USAO deliberately ignored this information. (Clark Tr. 152-153, 166.)

As a result of this work, the final Indictment treated BNL-Rome as a "victim" of a scheme to defraud by Drogoul and others at BNL Atlanta.³⁴

³⁴The indictment did not charge the Central Bank of Iraq ("CBI"), even though it had been named as a potential defendant. Mueller testified that the decision not to indict CBI was based on foreign policy considerations raised by the State Department and the Treasury Department. (Mueller Tr. 24-26.) A February 8, 1991 memorandum from Nicholas Rostow, Esq. to Brent Scowcroft at the National Security Council on the BNL indictment stated:

I have informed Robert Mueller . . . of your reluctance to seek an indictment of Iraqi government officials whom we are unlikely to take into custody. Bill Barr may call you to discuss this matter. . . . In the event Barr calls you about this matter, I recommend that, as part of the defense of your policy preference not to go forward, you carefully question him with respect to the [DOJ's]

UNCLASSIFIED

VIII. ADDITIONAL INTER-AGENCY INFORMATION REQUESTS --
FEBRUARY 1991

In February 1991, the DOJ renewed its requests to the CIA for name traces and information on certain individuals and corporate entities in anticipation of the BNL indictment about to be returned by a Grand Jury in Atlanta. In a letter dated February 9, 1991, Richard of DOJ wrote Jameson and requested updated information on all the entities previously named in the Greenberg letters as well as two new entities, Central Bank of Iraq and Rafidain Bank. Two days later, Richard orally requested Jameson to initiate a search on the Iraqi Ministry of Industry and Military Production and an updated search on Wafai Dajani.

The CIA responded with a letter, dated February 12, 1991, from Jameson to Richard. (OIC Ex. 306.) The letter, consistent with previous responses, stated that "[n]one of the [CIA] searches have located any record of either a current or past relationship between this agency and any of [the] individuals or entities" named in Richard's letter. The letter concluded by noting that "we have been asked to respond to Congress about the BNL matter and would appreciate any thoughts on how to respond."

The CIA provided an additional response to Richard's February 9 request in a letter, dated March 5, 1991, from [REDACTED] Assistant General Counsel, CIA ([REDACTED]) to Clark at DOJ.

reasoning for wanting to proceed. . . .

(OIC Ex. 117.) Attorney General Barr said that he had no recollection of talking with anyone on this issue, and Rostow recalled no further discussion on this. (Barr Tr. 19-21; Rostow Tr. 38-41.)

UNCLASSIFIED

(OIC Ex. 35.) The [REDACTED] letter, with attachments, conveyed additional information from the updated CIA searches in the form of: (i) newspaper and television reports on [REDACTED] (ii) 10 new intelligence reports on the named individuals and entities; and (iii) classified documents, originated by NSA and the State Department, which were referred to those agencies. [REDACTED]

On or about February 22, 1991, the DOJ and the FBI received the CIA cable (listed supra, on p. 17, subpara. 10), reporting that [REDACTED]

[REDACTED] There is no evidence the Fraud Section of the Criminal Division or the USAO Task Force ever saw this cable. (OIC Ex. 313.) [REDACTED]

IX. DOJ'S RECEIPT OF THE 6 NOVEMBER 1989 TYPESCRIPT -- MARCH 1991

On March 11, 1991, [REDACTED] wrote another letter to Clark, referring to a recent meeting attended by [REDACTED] Clark and Greenberg, and enclosing a copy of the 6 November Typescript by the CIA's Directorate of Intelligence that had never been provided to the DOJ (OIC Ex. 53.) Clark did not believe that the typescript

~~SECRET~~

UNCLASSIFIED

was at all significant on the issue of whether "BNL-Rome knew," because it was based only on press reports.

[REDACTED] letter explained that the 6 November Typescript was not produced in previous trace searches because "the office that produced it inadvertently failed to reference it in the indices maintained by the Directorate of Intelligence."³⁹ CIA Analyst [REDACTED] did not understand this, saying that a copy of the typescript would have been kept in her personal file and her Division's file, and could have been easily retrieved. (Clark Tr. 83-84, 154; [REDACTED] Tr. 23-27.)

The 6 November Typescript had been the subject of the January 31, 1990 transmittal letter from [REDACTED] of the CIA to David Kunkel at Department of Agriculture but that letter was not provided to the DOJ until October 1992. The January 31 letter stated that "new information" had come to light that "managers at BNL headquarters in Rome were involved in the scandal." [REDACTED] had also drafted this letter for [REDACTED] signature. She was unsure whether her sources at the time were public or private, but when she was later asked to declassify this letter, she found a

³⁹Members of the USAO Task Force saw the 6 November Typescript in Washington on two occasions. First, Wade of the Department of Agriculture and Richard Horton of Customs saw it during a September 13, 1991 trip to Washington. McKenzie, Chartash and Wade subsequently saw it when they traveled to Washington and viewed classified materials. (McKenzie Tr. 70-72; Chartash Tr. 60-61.)

The 6 November Typescript was ultimately sent to Atlanta by DOJ on July 9, 1992, in response to McKenzie's request for a copy of a report that had been cited in a recent Los Angeles Times article. When DOJ forwarded the 6 November Typescript, McKenzie and others in Atlanta realized that the newspaper article had cited a report that they had already seen. (McKenzie Tr. 71-72.)

UNCLASSIFIED

London Financial Times article that supported this statement, and was able to declassify the letter on the grounds that a public source existed. [REDACTED] Tr. 31-33.) She disagreed with the August 14, 1992 letter from Elizabeth R. Rindskopf, General Counsel to the CIA, to Allen Charles Raul, General Counsel to the Department of Agriculture, which suggested that the 31 January letter was based only on press reports. (OIC Ex. 223, p. 3; [REDACTED] Tr. 52-53.)

X. THE GONZALEZ SUMMARY -- OCTOBER 1991

In October 1991, the House of Representatives' Committee on Banking, Finance and Urban Affairs, chaired by Representative Henry Gonzalez ("the Gonzalez Committee") asked the CIA to produce certain BNL-related cables that the State Department had identified by serial number, and referred to the CIA under the "third agency rule." The CIA declined to produce any "raw" classified intelligence information to a "non-oversight" committee in Congress (such as the Gonzalez Committee), but it agreed to prepare a summary of that information as a compromise ("the Summary"). It also added two "Analytical Comments" at the end to "round out" the CIA Summary.

The [REDACTED] section of the CIA's Directorate of Operations prepared the CIA Summary based solely on the cables that had gone to the State Department, and then passed it along to the Directorate of Intelligence for analytical comments. [REDACTED] recalled

~~SECRET~~

UNCLASSIFIED

knowing the Summary and analytical comments would be reviewed by a Congressional Committee which prompted her to spend approximately two hours reviewing it (and possibly the cables), and preparing the comments. Her "Analytical Comment B" stated that two of the cables, dated October 20, 1989 and February 21, 1991, "confirmed press allegations that more senior BNL officials in Rome were witting of BNL-Atlanta's activities." [REDACTED] does not recall reviewing any other BNL information before preparing the comments, although she had some background on BNL, discussed above, that may have influenced her thinking.⁴¹ [REDACTED] (Tr. 54-60.) [REDACTED]

At her interview, [REDACTED] insisted that the Summary and the underlying cables support her analysis. She recognized, however, that the verb "confirmed" could be misinterpreted to mean that there was "evidence" that BNL-Rome knew, when she meant to suggest that the cables in the Summary constituted additional, firmer information that appeared to corroborate press reports. Similarly, [REDACTED] stated that she did not mean to suggest that the cables showed that BNL-Rome was "witting" of any illegal activities at BNL-Atlanta. The word "activities" could refer to either lawful or unlawful activities, and the cables were ambiguous on that subject. [REDACTED] (Tr. 60-75.)

⁴¹ [REDACTED] did not recall whether she reviewed the 6 November Typescript or the 31 January 1990 letter during the preparation of Analytical Comment B.

UNCLASSIFIED

After [REDACTED] finished her comments, the Summary with the analytical comments was distributed to several people at the CIA,⁴² but it was not distributed to the DOJ or the FBI. The Summary was reviewed by Dennis Kane, of the Gonzalez Committee, in October 1991. Kane was allowed to take notes on the Summary and these notes apparently became the basis for the Gonzalez press release almost a year later, on September 14, 1992. (Clark Tr. 97; [REDACTED] Tr. 55.)

XI. ADDITIONAL INTER-AGENCY REQUESTS -- JUNE 1991 - FEBRUARY 1992

The USAO continued to make periodic requests for intelligence information, but none related to BNL-Rome's knowledge or the knowledge or participation of U.S. government agencies. For example, a letter dated June 7, 1991 from Alexander of the USAO to [REDACTED] of the CIA submitted four additional names for trace searches.⁴³ In addition, Clark sent a facsimile transmittal, dated February 21, 1992, to [REDACTED] at the CIA. The transmittal from Clark states that he is transmitting "3 TD's" that had been released to the CIA during 1990 and 1991 and that Clark would

⁴²One of the people on the routing slip was [REDACTED] of the CIA's Office of General Counsel, although [REDACTED] does not recall seeing the Summary at that time. ([REDACTED] Tr. 112-113.) Almost a year later, [REDACTED] wrote the September 4, 1992 CIA letter, for Holmes's signature, that contained responses that could be read to be inconsistent with [REDACTED] Analytical Comment B.

⁴³Of the four names submitted, just one was related to BNL. The other three names were submitted in connection with a separate, non-BNL matter that Alexander was handling.

UNCLASSIFIED

contact [REDACTED] to discuss whether "review of the TD's would affect the BNL case." (OIC Ex. 225.)

XIII. INSPECTION OF INTELLIGENCE INFORMATION BY THE USAO
TASK FORCE TEAM -- APRIL 1991 - APRIL 1992

The USAO and its Task Force reviewed the intelligence information received by DOJ on at least three occasions after the Indictment was returned on February 28, 1991. Clark testified that the USAO and its Task Force members thoroughly reviewed the information on several occasions at DOJ, and that nothing was withheld from them. (Clark Tr. 130.) McKenzie felt that the USAO and its Task Force had an "open invitation" to review the intelligence information, but she felt a visit was not mandatory or urgent because Clark had told them the materials would not affect the Indictment. Wade recalls that he reviewed some State Department cables in December 1990 or January 1991, and that he and Richard Horton (of Customs) reviewed CIA, DIA, and State Department reports at DOJ on September 13, 1991. (Wade Tr. 41-46; 55-68.) Further, on April 30, 1992, the USAO's McKenzie and Randy Chartash ("Chartash") along with Wade reviewed four to five folders of the classified documents at DOJ (including CIA, DIA, and State Department reports that Wade and Horton had previously seen).⁴ After their April 1992 review, they were permitted to take the

⁴An index of all the intelligence reports, which was prepared by Nancy Brinkac, a trial attorney at DOJ working with Clark, confirms that on April 30, 1992, all the attorneys working on this case had the opportunity to review all of the cables that the DOJ had obtained from the Intelligence Community. (OIC Ex. 226; Clark Tr. 74-79, 153.)

~~UNCLASSIFIED~~

State Department classified documents (over 100 intelligence reports) back to Atlanta. The CIA, however, declined to permit their own intelligence information to be removed from the DOJ building.

**XIII. THE DROGOUL PLEA HEARING AND DEBRIEFINGS --
JUNE - AUGUST 1992**

On June 2, 1992, Drogoul pleaded guilty to 60 counts of the 347 - count Indictment and agreed to cooperate fully with the Government. At the plea hearing, Judge Shoob questioned why the USAO was permitting Drogoul to plead guilty to only 60 counts, when he had shortly before indicated that he would plead guilty to the entire Indictment and make a full statement to the Court. Judge Shoob, in accepting Drogoul's guilty plea, suggested that Drogoul was being "silenced," and warned that he would get no downward departure from the sentencing guidelines if he did not tell the full story at his sentencing hearing.⁴⁵

Thereafter, the USAO debriefed Drogoul on 33 occasions. During these debriefings, Drogoul identified five individuals involved in the BNL scandal that he believed might have some connection with U.S. intelligence agencies. He was also asked repeatedly whether "BNL-Rome knew." Drogoul offered no solid evidence of BNL-Rome's knowledge, other than saying that he believed officials at BNL-Rome were aware of the unauthorized

⁴⁵A detailed analysis of the Rule 11 hearing and other issues raised by the Court is contained in Part I of this Report. Accordingly, this Part II of the Report will consider only those issues raised by the Court that relate to Intelligence Community information.

UNCLASSIFIED

loans, based on their knowing glances, winks and nods, and because they "must have been aware" from the size of the transactions and other "signals."

In August 1992 defense attorney Bobby Lee Cook began representing Drogoul, and Drogoul subsequently refused to cooperate further with the USAO.

XIV. CONGRESSIONAL COMMITTEE REQUESTS -- JUNE 1992

By letter dated June 3, 1992, Senators David L. Boren and Frank H. Murkowski, on behalf of the Senate Select Committee on Intelligence ("Senate Intelligence Committee"), wrote Robert M. Gates, Director of the CIA, and requested an "all-source chronology which recounts all Intelligence Community reporting on all branches of (BNL), with particular emphasis on that bank's relations with Iraq" or with any third party that engaged in arms transfers or defense cooperation with Iraq." The CIA prepared such a chronology.⁴⁶

On July 24, 1992, Director Gates notified Representative Gonzalez that nearly all of the 6 November Typescript (annexed as OIC Ex. 14) had been declassified and provided to him. The report, in declassified form, was then reprinted in the July 31 Congressional Record at pp. H7142-7144. As a result, Alan Charles Raul, General Counsel, Department of Agriculture, wrote an

⁴⁶A copy of the June 3 Boren letter and an abbreviated two-page chronology were faxed to Ellen R. Meltzer, Senior Litigation Counsel, DOJ, on September 2, 1992. (OIC Ex. 302.) It is unclear whether anyone at DOJ was previously aware of the Senate Intelligence Committee request or of the CIA's chronology.

~~SECRET~~

UNCLASSIFIED

August 7, 1992 letter to Rindskopf, CIA General Counsel, requesting that the transmittal letter accompanying the report (i.e., the [REDACTED] letter to Kunkel, dated January 31, 1990), be declassified as well. (OIC Ex. 223.) According to Raul's letter, the [REDACTED] transmittal letter provided "certain additional information regarding the BNL-Iraq situation that is not reflected in the November 6 memorandum . . . (that) is highly relevant to the current inquiries into the BNL-Iraq matter." Rindskopf responded with the letter to Raul, dated August 14, 1992, that is referred to above, which enclosed a declassified version of the cover letter and noting that the "additional information" referred to by Raul "has been sourced to various newspaper reports." (OIC Ex. 223, p. 3.)

IV. INTER-AGENCY COMMUNICATIONS REGARDING DIVERSION/BARTERING ALLEGATIONS -- JUNE 1992 - AUGUST 1992

During the Summer of 1992, the USAO asked DOJ to request information from the Intelligence Community on the issue of whether Iraq was diverting agricultural products purchased through the Commodity Credit Corporation guarantees to Soviet block countries, and bartering them for military equipment.⁴⁷ Although these

⁴⁷In a letter dated July 31, 1992, DOJ's Clark wrote Jameson at the CIA concerning the diversion and sought, among other things, copies of all reports provided to Congressional Committees, including a report prepared at the specific request of the Senate Intelligence Committee regarding the Intelligence Community's knowledge of BNL and the Iraqi procurement network (i.e., the "all-source chronology" prepared by the CIA for the Senate Intelligence Committee). According to Brinkac, the CIA immediately made available to the DOJ for its review at the CIA all such reports, and Meltzer reviewed the all-source chronology.

~~SECRET~~

UNCLASSIFIED

requests were broad enough to pick up additional information on the issue of whether BNL-Rome or the Intelligence Community knew of, or participated in, the BNL-Atlanta unauthorized loans, they do not appear to have done so, despite full searches and review of documents.⁴⁸

XVI. THE MEETING AT DOJ ON AUGUST 31, 1992

On August 31, 1992, Brill met with Mueller and Ira Raphaelson in connection with the Drogoul sentencing hearing that was scheduled to begin on September 14. They discussed, among other things, the need to follow up on "every lead" from the Intelligence Community questions raised by Drogoul when he identified five people with possible intelligence agency connections.⁴⁹ (OIC Ex. 56.) They also discussed the USAO's need for help from DOJ in drafting the Sentencing Memorandum, which was behind schedule. (Brill Tr. 70-87; Mueller Tr. 48-57.)

To help with these tasks, Mueller assigned Ellen R. Meltzer, Senior Litigation Counsel, Criminal Division, Fraud Section ("Meltzer"); who had been handling the DOJ's response to an August 11, 1992 subpoena from Representative Gonzalez's Committee, and who was somewhat familiar with the case. Mueller thought that

⁴⁸Although my investigation discovered documents showing that U.S. intelligence agencies were gathering information prior to August 1989 on the Iraqi procurement of military equipment financed at least in part by the BNL-Atlanta loans, these issues are not the focus of this Report.

⁴⁹A New York Times column published that day alleged contemporaneous knowledge by the CIA of the illegal activities of BNL-Atlanta.

~~SECRET~~
UNCLASSIFIED

Meltzer's writing skills would be particularly useful to the USAO, and that her participation would avoid the personality conflict that had developed between Clark and McKenzie. (Brill Tr. 19-80; Mueller Tr. 92-93.) Mueller, Brill and Meltzer may also have discussed sending letters to all the intelligence agencies at that point, but neither Mueller nor Brill has any specific recollection of the substance of that discussion. (Mueller Tr. 62, 64, 86-87.)

XVII. SUMMARY OF SIGNIFICANT EVENTS RELATED TO DISSEMINATION OF INTELLIGENCE INFORMATION

A summary of the foregoing significant events in connection with the requests by the USAO and DOJ for intelligence information, the responses by the Intelligence Community, and the dissemination and review of such information is set forth below in order to set the context for the events of September 1992.

August 4, 1989: The BNL scandal becomes public knowledge as the search warrant is executed at the offices of BNL-Atlanta.

December 7, 1989: AUSA McKenzie writes a letter to DOJ's Warlov in the Office of International Affairs listing four Iraqi nationals, then targeted in the proposed indictment, for dissemination to the Intelligence Community.

January 31, 1990: CIA's [REDACTED] sends 6 November Typescript to USDA's Kunkel.

January -- May 2 1990: DOJ and USAO participate in a series of meetings where, among other matters, the issue of whether "BNL-Rome knew" is debated.

July 3, 1990: AUSA Rukstale writes a letter to DOJ's Richard seeking intelligence information on whether the CIA had knowledge or played a role in BNL's dealings with foreign governments and, specifically, Iraq.

UNCLASSIFIED

August 3, 1990: DOJ's Greenberg writes memorandum to CIA's [REDACTED] requesting an "all component search" for CIA information on BNL (this is the first formal request by DOJ of an Intelligence Community agency).

August 24, 1990: CIA's Jameson writes Greenberg a letter with the CIA's "interim response," stating that information had been collected as to certain of the names Greenberg provided.

October 2, 1990: Jameson writes Greenberg a letter, annexes classified exhibits and refers Greenberg to classified documents at other intelligence agencies.

October 8, 1990: Greenberg writes letters to CIA, DIA, NSC and the State Department requesting information on 31 individuals and BNL funding practices.

October 15, 1990: McKenzie writes Urgenson a letter seeking general intelligence information that could impact "the final scheme draft" of the Indictment.

November 23, 1990: DIA's Bathen writes Greenberg a letter with three enclosures, including [REDACTED]

November 29, 1990: Greenberg reviews NSC materials, compiled in response to DOJ's request, that contain no information on whether "BNL-Rome knew."

December 18, 1990: Jameson writes a third response letter to Greenberg, annexing classified information.

December 18, 1990: State Department writes a letter to Greenberg stating that it has gathered relevant documents in response to Greenberg's request.

December 1990: NSA's Lionel Kennedy advises DOJ (Clark or Greenberg) that NSA had a number of reports available for their review.

December 6, 1990: Clark writes a memorandum to McKenzie stating that CIA materials could be reviewed by her at DOJ at any time.

UNCLASSIFIED

December 27, 1990: Clark and Greenberg review documents at NSA.

December 1990 -- January 1991: Clark advises USAO that the Intelligence Community information gathered at DOJ to date will not affect the Indictment.

December 1990 -- January 1991: USDA's Wade, a member of Task Force, reviews classified State Department cables at DOJ.

January 1991: [REDACTED]

February 9, 1991: Richard writes Jameson a letter requesting updated CIA trace searches and information on certain individuals and corporate entities.

February 11, 1991: Richard orally requests that Jameson initiate CIA searches on the Iraqi Ministry of Industry and Military Procurement and Wafai Dajani.

February 12, 1991: Jameson writes Richard stating that the CIA had no relationships with the entities and individuals named in Richard's recent letter.

February 22, 1991: DOJ and FBI receive a CIA cable in normal course dissemination [REDACTED]

February 28, 1991: Indictment is returned.

March 5, 1991: CIA's [REDACTED] writes Clark with supplemental response and classified attachments.

March 11, 1991: [REDACTED] writes Clark and encloses copy of the 6 November Typescript.

September 13, 1991: Task Force members Wade and Horton review CIA, DIA and State Department documents at DOJ.

October 1991: CIA's [REDACTED] prepares analytical commentary to [REDACTED] Summary of cables for review by staff member of House Banking Committee.

~~SECRET~~

April 1992: DOJ's Brinkac and a paralegal prepare index of all cables in files at DOJ.

April 10, 1992: Wade and AUSA's Chartash and McKenzie review CIA, DIA and State Department documents at DOJ and transport State Department materials to Atlanta.

September 1, 1992: DOJ's Meltzer drafts letters to CIA, DIA and NSA seeking name traces and responses to questions.

!

~~SECRET~~

UNCLASSIFIED

THE SEPTEMBER 1992 STORY

I. THE SEPTEMBER 1, 1992 LETTERS TO THE INTELLIGENCE COMMUNITY

On September 1, 1992, Meltzer drafted letters to the CIA, addressed to David Holmes (OIC Ex. 47), to the DIA, addressed to Robert H. Berry, Jr. (OIC Ex. 86), and to the NSA, addressed to Stewart A. Baker (OIC Ex. 46.) The letters were virtually identical, listing ten questions concerning whether the intelligence agencies and BNL-Rome had contemporaneous knowledge of BNL-Atlanta's unauthorized loans.³⁰

In particular, Question 8 of each letter asked:

Does the [agency] have any information that BNL-Rome was aware of the illegal activities engaged in by BNL-Atlanta? If so, where did the [agency] acquire such knowledge?

This question was added by Brinkac, after she was asked to review Meltzer's letter. Brinkac thought it was an important question because of allegations that had been made in the press about BNL-Rome's knowledge.³¹ (Brinkac Tr. 34-44.)

Since Mueller and Urgenson were both unavailable,³² the letters were briefly reviewed only by Dennis Saylor (Special Counsel and Chief of Staff to Mueller) and Brinkac before being

³⁰The versions to CIA and DIA also named the five purported "sources" referred to by Drogoul, and asked whether the agencies had information on any of the names.

³¹ Brinkac later advised that the word "illegal" in Question 8 was probably chosen by someone else. (Brinkac Tr. Vol. 2, 6-7.)

³²Urgenson was preparing for the BCCI trial, then scheduled for mid-October 1992. (Urgenson Tr. 181-182.)

UNCLASSIFIED

signed by Gerald E. McDowell, Acting Deputy Assistant Attorney General and Meltzer's Fraud Section Chief, who had little familiarity with the BNL case at the time. (Urgenson Tr. 182-82.) Saylor and the USAO representatives do not remember drafting or making any substantive comments on the September 1 letter. (Saylor Tr. 26-28; Brill Tr. 87-89; McKenzie Tr. 105.)

Before sending out the letters, Meltzer telephoned [REDACTED] at the CIA and Berry at the DIA, and Brinkac called Kennedy at the NSA. The purpose of these calls was to advise that the letters were being sent in anticipation of intelligence information issues being raised during the Drogoul sentencing hearing.⁵³ Meltzer then faxed two copies of the letter to the CIA for Holmes and [REDACTED] and a copy to Berry and Kennedy at DIA and NSA, respectively. The letters called for a response by September 4. (Berry Tr. 48.)

After sending out the information requests to the CIA, DIA and NSA, Meltzer wrote a short note to Mueller describing her actions and enclosing copies of the letters. (OIC Exs. 57, 58; Brinkac Tr. 44; Kennedy Tr. 38-39.)

⁵³Meltzer faxed the five names referred to by Drogoul to [REDACTED] on August 31. [REDACTED] states that he had heard the five names before from McKenzie, who had made informal requests to [REDACTED] for CIA traces during the course of her involvement with the BNL investigation. [REDACTED] always responded to McKenzie's requests informally, but would notify Nancy Brinkac at DOJ and write a summary memorandum of the trace.

~~SECRET~~

UNCLASSIFIED

II. MELTZER VIEWS THE CIA'S ALL-SOURCE CHRONOLOGY --
SEPTEMBER 3

On September 3, a CIA representative showed Meltzer the all-source chronology that the CIA had prepared for the Senate Intelligence Committee earlier in the summer. This chronology was not shown to DOJ until Meltzer heard about it from [REDACTED] and specifically asked to see a copy of it.

Meltzer was permitted only to review this chronology and take notes, but not make a copy.⁵⁴ The chronology summarized events and intelligence information related to BNL dated from 1984, including the following cables on the subject of whether "BNL-Rome knew":⁵⁵

1. 12 September 1989 CIA operational cable [REDACTED]
2. 12 September 1989 DIA [collusion];
3. 5 October 1989 CIA intelligence cable [REDACTED]
4. 20 October 1989 CIA intelligence cable [REDACTED]
5. 17 November 1989 CIA intelligence cable [REDACTED]
6. 12 January 1990 CIA intelligence cable [REDACTED]
7. 20 April 1990 CIA intelligence cable [REDACTED]

⁵⁴Meltzer's notes of this chronology were later typed and put in her files.

⁵⁵All of these cables have previously been described in detail.

~~SECRET~~

UNCLASSIFIED

The CIA representative was unable to answer Meltzer's questions about the cables, and it is unclear how thoroughly Meltzer reviewed the all-source chronology. Certainly, her notes of the chronology do not reflect all the information in the cables set forth above. Moreover, the chronology did not refer to the CIA's October 1991 Summary prepared for Representative Gonzalez; it did not include a summary of paragraph 4 of the 12 January 1990 intelligence cable [REDACTED]

[REDACTED] and it did not refer to the 22 February 1991 cable suggesting [REDACTED]
[REDACTED]

III. THE RESPONSES TO THE 'SEPTEMBER 1 LETTERS --
SEPTEMBER 4 AND 9

On September 4, 1992, Meltzer received letters from the CIA and DIA responding to the DOJ's September 1 requests. (OIC Exs. 48 and 98, respectively.) The CIA letter responded to Question 8 specifically as follows:

CIA has publicly available information, acquired in the December, 1989 - January, 1990 time-frame, that BNL-Rome was aware of the illegal activities engaged in by BNL-Atlanta.

(OIC Ex. 48, p. 2).

The DIA responded generally to all DOJ's requests with the statement:

Our file search with regard to the ten questions posed by Mr. McDowell's letter has been negative. DIA has had no involvement whatsoever with BNL.

(OIC Ex. 88.)

UNCLASSIFIED

On September 8, 1992, Brinkac received the NSA's response to the DOJ's September 1 letter. (OIC Ex. 46.) The NSA letter responded to Question 8 specifically with the word "No", but noted that the agency's response was limited by the type of information collected. (OIC Ex. 230.)

When Meltzer saw the September 4 letter, she called Urgenson to discuss the CIA's response to Question 8. Urgenson had no independent recollection of that call, but an E-Mail from Meltzer to Brinkac, dated September 4, reflects part of that conversation:

I spoke with Larry re: CIA's response to question 8. We (i.e., you) need to follow up with CIA and just make sure that what they are referring to is nothing more than press reports, etc. and what they specifically concerned.

(OIC Ex. 49.)⁵⁶

Shortly thereafter, Meltzer left for Atlanta to assist in the preparation of the sentencing memorandum.⁵⁷ Although Brinkac recalled receiving the September 4 E-Mail from Meltzer, she had no recollection of following up with the CIA, or discussing this further with Meltzer. (Brinkac Tr. Vol. 2, 3-6.)

⁵⁶Urgenson surmised from this E-Mail that he briefly discussed the issue with Meltzer on the telephone as he prepared for the BCCI trial. (Urgenson Tr. 183-84, 187-88.)

⁵⁷McKenzie reviewed the CIA's September 4 letters from the CIA and DIA shortly after Meltzer arrived in Atlanta, but the USAO did not have the appropriate clearance to review the NSA's September 8 response. Mueller, Urgenson, Brill and Chartash do not recall seeing any of these September letters until much later in the month. (Mueller Tr. 73; Urgenson Tr. 89-90.)

UNCLASSIFIED

Throughout early September, no DOJ or USAO attorney consulted with Clark or Greenberg in connection with the September 1 letters or the responses to those letters, even though they were probably in the best position to evaluate these letters and responses based on their prior work. (Clark Tr. 167-169, 176.)

A. The CIA's Preparation of Its Response -- September 4

Both [REDACTED] and Holmes, the Deputy General Counsel at the CIA, received a copy of the DOJ's September 1 letter. [REDACTED] had been involved in the BNL case since June 1991,⁵⁸ and Holmes was handling the matter for General Counsel Elizabeth Rindskopf while she was absent from the office. Holmes specifically assigned [REDACTED] (via Jameson) to handle the CIA's response to the September 1 letter, even though he stated that he was not entirely confident of [REDACTED] abilities, and thought he needed supervision. (Holmes Tr. 19-21, 23-25, 35-36.)

[REDACTED] said that he took a number of steps to respond to the DOJ's September 1 letter. First, he initiated a trace search of the five names submitted by Meltzer to be conducted by the Directorate of Operations Information Management Staff, [REDACTED]

[REDACTED]

⁵⁸ [REDACTED] had previously been assigned to respond to specific requests of Representative Gonzalez, made during the period of August through September 1991, for certain cables. In April 1992, in response to a subpoena from Representative Gonzalez's Committee, the Treasury Department located five CIA cables related to BNL that appeared responsive to the subpoena. [REDACTED] recalls that he received the cables from Treasury Department attorney Gerry DiGiulio and then reviewed the cables with Brinkac and Clark at DOJ.

UNCLASSIFIED

(Cooper Tr. 9-11, 79-82.) He also reviewed numerous records, and prepared proposed responses to the ten questions in the September 1 letter.³⁹ Finally, [REDACTED] reviewed his proposed responses with [REDACTED] Office of Congressional Affairs [REDACTED] and [REDACTED] [REDACTED] in the Directorate of Intelligence Office of Near Eastern and South Asian Analysis. (Cooper Tr. 87-93.) [REDACTED]

According to [REDACTED] "[a]t no time did any of those individuals object to the answers" and "[t]hese were the people designated by their front offices to give a final say-so as to the

³⁹Specifically [REDACTED] allegedly reviewed the following information in connection with his response to Question 8:

1. Litigation files maintained in the CIA's Office of General Counsel;
2. Files maintained in the CIA's Office of Congressional Affairs;
3. The 6 November Typescript prepared by Directorate of Intelligence (OIC Ex. 14);
4. The [REDACTED] transmittal letter (enclosing the 6 November Typescript), which stated that BNL-Rome knew of BNL-Atlanta's activities (when questioned by [REDACTED] [REDACTED] stated that his opinion was based on press reports during the December 1989 and January 1990 period) (OIC Ex. 110);
5. All cables then on file and the 16 or 17 Directorate of Intelligence reports in which BNL was mentioned; and
6. [REDACTED]

([REDACTED] Tr. 13-15, 87-96, 102-105.)

UNCLASSIFIED

responses."⁶⁰ [REDACTED] Tr. 14-15, 88.) [REDACTED] further stated that [REDACTED] and [REDACTED] suggested that the words "publicly available information" be substituted for [REDACTED] phrase of "press reports" in [REDACTED] proposed response to Question 8, because the latter clause did not sound technical enough for an intelligence agency.⁶¹ [REDACTED] Tr. 103.)

[REDACTED] disagreed with [REDACTED] account. According to her, [REDACTED] called only once during this period to ask what sources she and [REDACTED] were aware of on the subject of whether BNL-Rome knew. That call was late on a Friday afternoon, probably on September 4. [REDACTED] told [REDACTED] that she was aware off-hand of press reports suggesting that BNL-Rome knew, but would have to check her file as to whether there was any non-public information.⁶² However, [REDACTED] did not ask her to do such a review. [REDACTED] stated she never saw any draft of the September 4 letter, and made no comments on the wording of that letter, which she viewed as "incomplete." [REDACTED] Tr. 79-89.)

After [REDACTED] finished the CIA's September 4 letter, he gave a final draft to Holmes for his signature late on Friday afternoon, September 4. (Holmes Tr. 38.) Holmes had not been

⁶⁰All these people had been appointed by their respective CIA Directorates to the "Iraqi Task Force" to handle questions on BNL matters.

⁶¹[REDACTED] noted that the DIA's September 17 response had similar wording, although DIA had no direct contact with [REDACTED]

⁶²[REDACTED] had kept a complete file on BNL since October 1989, and had written the 6 November Typescript and the January 31, 1990 letter for [REDACTED] signature, as well as the Analytical Comments in the October 1991 CIA Summary for Representative Gonzalez.

ORIGINAL SOURCE

supervising [REDACTED] work on this letter, and had not seen an earlier draft. However, he stated that before he signed the letter, he asked [REDACTED] whether the letter had been "coordinated" with other departments, and whether [REDACTED] was satisfied that the letter contained accurate and complete answers. (Holmes Tr. 39-40.) [REDACTED] assured him that it did, but gave no specifics. (Holmes Tr. 40-44.)

Holmes then skimmed the letter himself, and did not specifically recall noticing the response to Question No. 8 at that time. (Holmes Tr. 45.) Holmes did not recall asking whether Jameson had supervised [REDACTED] work, or had reviewed the answers in the letter, even though Holmes thought that [REDACTED] needed such supervision. (Holmes Tr. 39-40, 43-44.) Holmes also did not recall looking at the questions in the September 1 letter, and comparing them with the CIA's responses, before signing the letter. (Holmes Tr. 44.)

[REDACTED] stated that in responding to Question 8 he focused on the issue of what information, if any, the CIA had that would show that BNL-Rome had contemporaneous "institutional knowledge" of unlawful activities at BNL-Atlanta. [REDACTED] Tr. 14-16, 95-97.) In [REDACTED] view, unless a source specifically stated that BNL-Rome had contemporaneous knowledge, he could not assume that BNL-Rome had such knowledge.⁴³ Moreover, since none of the CIA cables

⁴³ [REDACTED] testified that he reviewed "speculation from sources that said they [BNL-Rome] must have known, how could they not have known, with no corroborating evidence. . ." as well as "information from a lot of sensitive sources. . . that said they did not know." ([REDACTED] Tr. 105.)

UNCLASSIFIED

specified a time-frame or stated whether the loans described therein were authorized or not, [REDACTED] concluded that he had no classified information that BNL-Rome knew. [REDACTED] Tr. 16-18, 105, 108-109.)

While [REDACTED] acknowledged that, in retrospect, he could have expanded the response to Question 8 to discuss speculative information, he insisted that the CIA's September 4 letter was not misleading or inaccurate. ([REDACTED] Tr. 108-110.) [REDACTED] also noted that he thought the DOJ already had most, if not all, of the information on file at the CIA. A detailed renewed analysis of such information was neither requested nor realistic under the short time allotted for the CIA's response."

Holmes testified that, in his view [REDACTED] simply missed some cables during his review. In particular, Holmes says that when Jameson later showed [REDACTED] the 12 January 1990 cable reporting [REDACTED] (OIC Ex. 59), and asked [REDACTED] how that cable could be consistent with the September 4 letter, [REDACTED] responded with "stony silence." (Holmes Tr. 104-105.) [REDACTED] disagreed with this testimony, saying that he specifically recalled reviewing the 12 January 1990 cable before drafting the September 4 CIA response and that he, unlike

"[REDACTED] later told Holmes that Meltzer had said that she was only looking for new intelligence regarding BNL-Rome's contemporaneous knowledge, and was not interested in intelligence already provided to the DOJ. However, Holmes did not remember [REDACTED] telling him this when the September 4 letter was drafted, and neither the letter nor any other document reflects such a limitation. (Holmes Tr. 95, 99-103.)

Jameson, realized that the DOJ had possessed the [REDACTED] since October 1990. [REDACTED] Tr. 94.) [REDACTED]

B. The NSA's Preparation of a Response -- September 8

Kennedy said that when he received the DOJ's September 1 letter, he discussed it with General Counsel Stewart Baker, Assistant General Counsel Vito Potenza, and several operations people. On September 9, 1992, the NSA sent the DOJ a letter that responded to Question 8 with the word "No." Kennedy believed that NSA's response in the negative to Question 8 was accurate, and reflected the NSA's best understanding of the available information reviewed. (Kennedy Tr. 38-43.)

C. The DIA's Preparation of a Response -- September 4

Berry initiated the search for the five names in the DOJ's September 1 letter, [REDACTED]

[REDACTED] (Berry Tr. 51.) [REDACTED]

He contacted the DIA's Office of the Controller for information on any dealings with BNL, and relied upon the results of the DIA's previous searches for BNL information undertaken in the fall of 1990 (OIC Ex. 73) and in the summer of 1992. (OIC Ex. 85; Berry Tr. 52.) In Berry's view, given the time constraints in

⁶³When Berry received the September 1 letter, he was "surprised" that it contained ten questions in addition to the five names for the trace search that he and Meltzer had discussed. (Berry Tr. 52.)

UNCLASSIFIED

which a response was requested (i.e., by September 4), it would have been impossible to begin and complete a "zero based search."

Berry drafted and signed the letter without conferring with anyone else at DIA or at DOJ, mentioning to DIA's General Counsel William J. Allard only that he had completed the task. (Berry Tr. 52-54.) At the time, Berry's attention was more focused on the DIA's response to a subpoena from the Gonzalez Committee. Berry stated that the Director of the DIA had been subpoenaed and that Berry, in coordinating the response, was receiving documents "from everybody." (Berry Tr. 54-55.)

IV. THE SENTENCING MEMORANDUM AND BRILL'S LETTER TO COOK -- SEPTEMBER 10 AND 11

The USAO's September 11 Sentencing Memorandum stated on page 34 that "no credible evidence has been uncovered that supports the defendant's suspicion that other officers at BNL or public officials within the United States government knew of his illegal activities." (OIC Ex. 99, p.34.) Meltzer was responsible for drafting this language and it is unclear what information she relied on for this statement. McKenzie said that Meltzer reviewed this language with "Justice," without identifying any individual.⁶⁴ (McKenzie Tr. 114.) Clark said he was not consulted about this before the Sentencing Memorandum was filed with the Court. (Clark

⁶⁴Chartash remembered that "many people had an opportunity to review" this language, but that he personally raised no questions or comments. He viewed Meltzer as being responsible for intelligence information issues. (Chartash Tr. 102-105.) Brill had no personal knowledge of the basis for this statement. (Brill Tr. 116.)

~~SECRET~~

UNCLASSIFIED

Tr. 197.) There is no record that Meltzer or the USAO received the CIA cables before drafting this language.

At around this same time, McKenzie received a September 8, 1992 letter from Bobby Lee Cook, Drogoul's new attorney, requesting documents and information on a variety of subjects. (OIC Ex. 209.) Paragraph 2 of the Cook letter expressly requested documents or information "that would show knowledge on the part of the government in BNL-Atlanta's illegal dealings with the Iraqis." Although the Cook letter went on to refer to the "party line" that "no one in BNL-Rome or BNL-NY knew of the wrongdoing," it did not specifically request any information on this subject.

Brill consulted with Clark about Cook's request in paragraph 2, because she viewed him as being the most knowledgeable person on intelligence information issues. (Brill Tr. 94.) Based on Clark's suggested language, Brill drafted a response to Cook's letter that included a statement that the "government is aware of no document or physical evidence that would show [contemporaneous] knowledge on the part of the government of BNL-Atlanta's illegal activities. . . ."⁶⁷ (OIC Ex. 100.) Brill's letter did not address the question of whether BNL-Rome knew, because she did not think such an answer was called for. (Brill Tr. 102-103.)

⁶⁷The failure to consult Clark about the September 4 CIA letter or the September 11 Sentencing Memorandum is even more difficult to understand, given the fact that Brill thought it prudent to consult him on her response to Cook.

~~SECRET~~

UNCLASSIFIED

That same week, Brinkac drafted a memorandum dated September 11, 1992 to Urgenson captioned "Status Report on Fraud Section Efforts to Obtain Information From Federal Agencies on Behalf of the Northern District of Georgia." (OIC Ex. 212.) The memorandum sets forth in detail the requests for intelligence information by DOJ in 1990 and 1992, and the responses to these requests. Brinkac says she prepared this memo because she was leaving the Fraud Section, and thought the information might be useful in the future. (Brinkac Tr. 33-34.)

V. THE GONZALEZ PRESS RELEASE - SEPTEMBER 14

On September 14, 1992, Representative Gonzalez issued a press release alleging that the CIA had information in its files showing that BNL-Rome authorized the loans to Iraq made by BNL-Atlanta. (OIC Ex. 214.) Specifically, the press release quotes the CIA information as saying:

Most of the [CIA] reports repeated information available in the press The exceptions are that BNL financing helped pay for the Condor II missile project, and confirmation of press allegations that more senior BNL officials in Rome had been witting of BNL-Atlanta's activities.

(OIC Ex. 214.)

Representative Gonzalez's press release further alleged that this information was in "direct conflict" with the USAO's theory that Drogoul and BNL-Atlanta had acted independently of BNL-Rome. On the same day, Representative Gonzalez went to the House floor and criticized the DOJ for pursuing a "politically conven-

~~SECRET~~

UNCLASSIFIED

ient" but inaccurate theory in the BNL-Atlanta case. (OIC Ex. 213.)

Representative Gonzalez based his statement and press release on notes that his staff member, Dennis Kane, had taken when he viewed [REDACTED] Analytical Comment B in the October 1991 CIA Summary.⁶⁸ As noted above, there is no record that anyone at DOJ received or knew about this CIA Summary before Representative Gonzalez's September 14 press release. [REDACTED] at the CIA was on the routing list for this CIA Summary back in 1991, but he denied having seen it, and he made no reference to it in the CIA's September 4 letter. ([REDACTED] Tr. 50; Holmes Tr. 59, 71.) Holmes denied knowing about the CIA Summary before he signed the September 4 letter. (Holmes Tr. 51.)

VI. THE COMMENCEMENT OF THE DROGOUL SENTENCING HEARING -- SEPTEMBER 14

On the same day that Representative Gonzalez issued his press release and made his statement, the Drogoul sentencing hearing commenced before Judge Shoob. In his opening statement, defense counsel Cook alleged that the U.S. intelligence agencies and BNL-Rome had known contemporaneously of BNL-Atlanta's unauthorized loans to Iraq. On the second day of the sentencing hearing, September 15, Cook referred in open Court to the allegations in Representative Gonzalez's press release and his House statement,

⁶⁸The fact that the Gonzalez press release on this subject was not issued for almost a year after Kane made notes on the Summary suggests that Representative Gonzalez did not believe that the information was too significant.

~~SECRET~~

UNCLASSIFIED

and claimed that the DOJ was involved in a cover-up for political and foreign policy reasons.⁶⁰

The USAO clearly was surprised by the Gonzalez press release and the Cook allegations. (McKenzie-Tr. 116-20.) The USAO believed that the information they had previously received from Clark and Meltzer, as well as their personal review of the CIA materials in Washington, contradicted the claims by Representative Gonzalez and Cook.

VII. REACTION AT DOJ-- SEPTEMBER 14 - 16

Mueller, Urgenson, Richard, and Meltzer at DOJ were also taken by surprise by the Gonzalez and Cook statements because they had neither seen nor heard of the CIA Summary. (Mueller Tr. 124.) Nevertheless, they recognized that Representative Gonzalez's statements had created the public impression that the DOJ was withholding or misrepresenting information in the BNL-Atlanta case, and that some response would be necessary. (Mueller Tr. 115-117.)

When the DOJ received the Summary from the CIA during the day on September 15, they proceeded to compare the Analytical Comment B, which suggested that BNL-Rome was "witting", with Items E, F and J in the Summary that summarized cables dated 5 October 1989, 20 October 1989 and 21 February 1991. (Mueller Tr. 113-115; Urgenson Tr. 20, 203.) Mueller and Urgenson also reviewed the

⁶⁰The transcript of the proceedings reflects that Cook continued to receive, and make reference to, Congressional statements throughout the sentencing hearing.

~~SECRET~~

UNCLASSIFIED

cables underlying the Summary shortly thereafter.⁷⁰ (Mueller Tr. 114.; Urgenson Tr. 199-200.)

After their review, Mueller, Urgenson, and Meltzer noted that the Comment did not expressly say that BNL-Rome officers knew contemporaneously of BNL-Atlanta's unauthorized loans to Iraq, as the Gonzalez press release alleged.⁷¹ They further determined that, even if the Comment could be read to say that "BNL-Rome knew," that conclusion was not supported by Items E, F and J of the Summary.

In particular, they noted that Item J, which summarized the 22 February 1991 cable, [REDACTED] but mentioned no time frame and did not indicate that the loans referred to were BNL-Atlanta's illegal loans. Similarly, Item F, which referred to a 22 October 1989 cable, contained only a source's opinion about what [REDACTED] were speculating, and had no firm proof. Finally, Item E, which referred to the 5 October 1989 cable, also contained a source's opinion that BNL-Rome must have known [REDACTED]

⁷⁰Meltzer located the underlying cables forming the basis for the Summary in the Fraud Section's safe. (Urgenson Tr. 203.) An E-Mail from Meltzer at 10:28 p.m. reflects that she left the four cables referenced in the CIA Summary for Mueller and Urgenson at the DOJ Command Center on the night of September 15.

⁷¹Mueller noted that "Analytical Comment B" states only that BNL-Rome officers were "witting" of BNL-Atlanta "activities," without saying whether that knowledge was contemporaneous and whether that knowledge was of "illegal" activities. (Mueller Tr. Vol.2, 36-39.)

~~SECRET~~

UNCLASSIFIED

~~_____~~ without specifically identifying the time frame or whether this was an "off-book" loan. (Mueller Tr. 114-117; Urgenson Tr. 206-208, 210-212.) ~~_____~~

In addition, Clark had reviewed the Summary and opined in a September 15 E-Mail to Urgenson that the analytical conclusions in the Summary were incorrect. (OIC Ex. 98; Urgenson Tr. 200; Clark Tr. 203-210.)

Richard at the DOJ then contacted the CIA for an explanation for the apparent discrepancy between the Comment and Items F and J in the Summary, and to determine whether the CIA had any additional information that might support the Comment. (Mueller Tr. 118; Urgenson Tr. 214.) Mueller does not recall anyone discussing the need to review thoroughly all the intelligence information in the DOJ files on the subject of what BNL-Rome knew. Mueller did recall that Meltzer had gone through the Fraud Section safe, and briefly looked at the cables, when she located three of the four CIA cables referenced in the CIA Summary. (Mueller Tr. 121, 127, 131.)

When Richard was unable to get an explanation from the CIA, Mueller began talking directly with Holmes about that subject, and whether there was anything that CIA could make public that would respond to Representative Gonzalez's press release.⁷² (Mueller Tr. 109-110, 131, 133, 147-148; Holmes 55-56.) Since the

⁷²During this period, DOJ's Richard, Meltzer and Urgenson were also exchanging telephone calls with CIA's Holmes, ~~_____~~ Jameson and Rizzo. (Urgenson Tr. 216; Cooper Tr. 112.) In Urgenson's view, it was a "chaotic" time. It is difficult to reconstruct with precision who said what to whom, and when it was said.

UNCLASSIFIED

CIA cables at issue were classified, it was not possible to make them public.⁷³

VIII. THE USAO'S ANALYSIS OF THE CIA SUMMARY

The USAO received the CIA Summary and facsimile copies of the four relevant underlying cables from DOJ on September 16.⁷⁴ (McKenzie Tr. 118, 121-122.) After reviewing these documents, the USAO and the Task Force agents concluded that the underlying cables did not support the Summary.⁷⁵ As a result, the USAO requested that the DOJ get the materials declassified so that they could be shown to the Court. (McKenzie Tr. 123-127.) According to McKenzie:

I don't know that they [DOJ] didn't have the same thought the second they saw them [the Summary and cables]. But nobody had to tell us to make these public. It was a non-issue. Get it on the record so that it can be addressed.

(McKenzie Tr. 126-127.)

⁷³Urgenson believed that Richard initially attempted to get the Summary and the underlying cables declassified "just to lay it out, to be able to address it and put it forward." (Urgenson Tr. 216.)

⁷⁴Meltzer received a copy of the Summary from the CIA via secure facsimile (OIC Ex. 50) and sent it via facsimile to the FBI in Atlanta for transmittal to the USAO. She also sent copies of the four cables underlying the Summary. (OIC Ex 51.; Brill Tr. 132.)

⁷⁵McKenzie said she was more focused on witness preparation for the ongoing sentencing hearing. Brill said that the Task Force was more knowledgeable on this issue than she was. (Brill Tr. 138; McKenzie Tr. 122.)

~~SECRET~~

UNCLASSIFIED

IX. REACTION AT THE CIA - SEPTEMBER 14-16

On or shortly after September 14, Holmes recalls receiving a telephone call from Richard, who was very upset, saying that there was a "firestorm" brewing at DOJ over the Gonzalez press release. Holmes also remembers receiving several angry telephone calls from Mueller regarding the numerous press inquiries that the DOJ was receiving about Representative Gonzalez's allegations, and asking why the CIA had never sent the October 1991 CIA Summary to the DOJ. (Holmes Tr. 53-55.) In Holmes' view, Mueller had a huge public relations problem, which he believed the CIA had caused, and he wanted the CIA's help in resolving that problem. (Holmes Tr. 61.)

[REDACTED] was in the office with Holmes as he received the various DOJ telephone calls inquiring about the subject of the Gonzalez press release. Holmes assigned [REDACTED] to determine what information Representative Gonzalez was referring to, and [REDACTED] obtained a copy of the Summary from [REDACTED] in the Office of Congressional Affairs. ([REDACTED] Tr. 111-113.) [REDACTED]

Although Holmes had asked Jameson and [REDACTED] for a full explanation on the CIA Summary, he was having difficulty obtaining an answer, and was concerned that [REDACTED] did not seem to have a "grasp of the facts." (Holmes Tr. 59, 79.) In particular, Holmes wanted to know first whether [REDACTED] had seen the CIA Summary before (Holmes Tr. 49), and whether that information was inconsistent with the DOJ's theory of the case. (Holmes Tr. 64-65.) He was not focused on whether there was an inconsistency between the Summary

~~SECRET~~
UNCLASSIFIED

and the answer to Question 8 in the September 4 letter. (Holmes Tr. 62, 66-67.)

When Holmes raised this issue with Director Gates of the CIA during the course of a breakfast meeting on September 16, Gates advised that he was not inclined to issue any press release to explain the CIA Summary. (Holmes Tr. 65, 74.) Instead, Gates suggested that the CIA "help out" the DOJ as much as possible, perhaps by providing some statement to be incorporated in a DOJ press release. (Holmes Tr. 76.)

I. THE SEPTEMBER 17, 1992 CIA LETTER

On September 17, a declassified version of the CIA's September 4 letter was prepared (OIC Ex. 216), in the form of a new letter from Holmes to Brill that adopted verbatim the ten responses contained in the September 4 letter, including the response to Question 8. The record is unclear as to who specifically released this letter to the public, and when it was released. The September 17 letter was used as an exhibit by Cook at the Drogoul sentencing hearing.

The idea of seeking a declassified version of the CIA's September 4 letter was first raised in a discussion between Mueller, Urgenson and Richard shortly after the Gonzalez September 14 press release.⁷⁶ Mueller says that he did not focus on whether the answer to Question 8 in the letter about "publicly available"

⁷⁶Mueller does not recall who first suggested seeking a declassified version of the September 4 letter. (Mueller Tr. 136-138, 140.)

~~SECRET~~

UNCLASSIFIED

information was now incomplete, given the CIA's disclosure of private-source information in the CIA Analytical Comment B and three of the underlying cables that "BNL-Rome knew." Nor did Mueller attempt to avoid further surprises by directing that all the BNL intelligence information in the DOJ's files should be reviewed before releasing the letter. Rather, he focused on the fact that the September 4 letter was the most recent statement by the CIA on the subject of whether BNL-Rome knew, and he wanted Judge Shoob and the public to be advised that the DOJ had received and relied in good faith on that statement. (Mueller Tr. 138-141, 145-146, 158-159.)

Urgenson agreed with this approach, because he believed that every relevant document should be put before Judge Shoob. (Urgenson Tr. 218.) In Urgenson's view the September 4 letter was the only accurate statement of what the CIA had told the DOJ. (Urgenson Tr. 218.) According to Urgenson:

[T]he relevant issue . . . was what did the Department of Justice know and when did they know it. And what were the communications between the CIA and the Department of Justice . . . And I thought it was important and fair and right to get out to the Court and everyone else that what they had told us was not what they were putting in the newspapers . . . That we had not been told, as the newspapers implied, that BNL-Rome was involved and engaged in a conspiracy. What we had just been told is that they are not involved in illegal activities.

(Urgenson Tr. 218-219.)

Between September 14 and 17, Urgenson had several conversations with Jameson and Holmes at CIA as to whether the September

~~SECRET~~

UNCLASSIFIED

4 letter could be released without changing the answer to Question 8. (Urgenson Tr. 221.) Jameson raised with Urgenson his concern that the answer might have to be changed to make it "more complete," such as by adding a parenthetical explanation, which Jameson did not specify, that the CIA had certain speculative information. (Jameson Tr. 134.) According to Jameson, Urgenson "strongly advise[d]" that the answer not be changed for the sake of consistency, and warned him that any change would require a full explanation and might be read to suggest something that was never intended. (Jameson Tr. 135-136.) Jameson agreed that "even a single word change sometimes is more trouble than it's worth." (Jameson Tr. 136.) He also stated that ultimately Urgenson told him that the CIA had to decide whether a change was necessary. Jameson kept Holmes informed of his discussions with Urgenson and Holmes concurred with Jameson's recollection. (Holmes Tr. 94-95.)

Holmes and Jameson concluded that, although the answer to Question 8 could contain additional information, it should not be changed, for the sake of consistency. (Holmes Tr. 94-95; 109.) They both believed that the answer was accurate and complete, and

~~SECRET~~

UNCLASSIFIED

Holmes said that they did not intend to be misleading.⁷⁷ (Holmes Tr. 95, 132-133; Jameson Tr. 134.)

Urgenson has a different recollection of his conversations with Jameson concerning the response to Question 8 in the September 17 letter. He does not recall "strongly advising" Jameson not to change the answer, but he does recall being worried about the public perception of any change:

[I]n this atmosphere. . . we would be accused of having doctored the evidence, gotten together in a meeting over the phone and decided after the fact to deceive the public and the Court with a new answer.⁷⁸

(Urgenson Tr. 230.)

Urgenson was not particularly concerned about the substance of the answer to Question 8. He considered it to be accurate based on his knowledge of the underlying cables,⁷⁹ and certainly more accurate than the Analytical Comment B in the CIA

⁷⁷Holmes says that, with hindsight, he should have added that the CIA had other classified information that mentioned BNL-Rom's knowledge, but did not permit any definitive conclusion about whether BNL-Rome knew about illegal activity at BNL-Atlanta. (Holmes Tr. 93, 96.) Holmes first began to question his judgment on this letter after meeting with the Staff of Senator Boren's Committee on September 28. He left that meeting thinking that the answer to Question 8 was "technically correct," but might be misleading to the public. (Holmes Tr. 95-96, 108, 116-117, 135-137.)

⁷⁸Urgenson called this the "Kloske" problem (referring to the Under Secretary for Export Administration, Department of Commerce). (Urgenson Tr. 223, 203, 233.)

⁷⁹At that time, Urgenson did not personally review any cables.

~~SECRET~~

UNCLASSIFIED

Summary relied on by Representative Gonzalez.⁶⁰ (Urgenson Tr. 232-235.) At the time, Urgenson thought that the CIA was going to issue a full explanation of the Summary, regardless of the substance of the answer to Question 8. He further thought that Judge Shoob would not be misled, because he was going to receive the CIA Summary, the underlying cables, and the CIA's explanation very shortly. (Urgenson Tr. 224-227, 229.)

The DOJ had another private-source CIA cable in its files that suggested "BNL-Rome knew." That cable was dated 12 January 1990, and reported [REDACTED]

[REDACTED]

[REDACTED]

(OIC Ex. 59.) [REDACTED]

XI. THE CIA STATEMENT PREPARED ON SEPTEMBER 18

Prior to September 18, 1992, Mueller had talked to Holmes at CIA about a statement from the CIA, for release by the DOJ, that would explain the apparent discrepancy between the Analytical Comment B in the CIA Summary and the underlying cables. (Mueller Tr. 147.) Holmes had advised Mueller that he was working on such a statement. (Mueller Tr. 147-153; Holmes Tr. 119.) However, late on Friday, September 18, Holmes called Mueller and said that he had had difficulty coordinating the statement with all the sections at

⁶⁰Holmes did not believe that the answer had to be changed in light of the CIA Summary; he thought the Comment was not supported "from an evidentiary standpoint" by the cables. (Holmes Tr. 107-115.) He also assumed that the Court had seen, or would ultimately see, the Summary along with the letter, and draw its own conclusions. (Holmes Tr. 96, 117-118, 134.)

~~SECRET~~ UNCLASSIFIED

the CIA, and that the DOJ would probably not be satisfied with the statement, but it was the best the CIA could do. (Mueller Tr. 147; Holmes Tr. 119, 122-123.)

The statement, which was faxed to Mueller on Friday evening, September 18, read:

(T)he Department has reviewed the CIA summary provided to Representative Gonzalez, as well as the underlying intelligence reports. The Department believes that neither the summary nor the reports permit the definitive conclusion that BNL-Rome was aware at BNL-Atlanta was engaged in illegal activities, and further believes that the CIA information does not conflict with the prosecution's theory of the case. Both the Department of Justice and the CIA are prepared to have Judge Shoob review the relevant materials which we believe will speak for themselves.

(OIC Ex. 60.)⁸¹

In Mueller's view, the statement was inadequate primarily because it did not explain the apparent discrepancy between the Summary and the cables, and implied that the CIA's information permitted the conclusion, although not a "definitive" conclusion, that BNL-Rome had contemporaneous knowledge of illegal activities at BNL-Atlanta. Mueller did not believe that the four underlying cables or the CIA Summary supported this conclusion, and was not aware of any other information that would support such a statement.⁸² (Mueller Tr. 154; Holmes Tr. 129-130.)

⁸¹John Helgersson, the CIA's Deputy Director of Intelligence, added the language that the CIA's information did not permit the "definitive conclusion" that BNL-Rome knew. (Holmes Tr. 120-121.)

⁸²No one at DOJ had reviewed the intelligence information, or consulted with Clark, to determine whether Mueller's understanding on September 18 was correct.

~~CONFIDENTIAL~~
UNCLASSIFIED

Following his review of the statement, Mueller called Holmes to tell him it was unsatisfactory. According to Holmes, Mueller called the statement "laughable." (Holmes Tr. 123.) As a result of Mueller's objections, the statement prepared by CIA was never released. It was at this point that Mueller decided to present the Summary and the underlying cables to Judge Shoob, so that the Court could determine whether there was a discrepancy between the Summary's Analytical Comment B and the underlying cables, and whether Representative Gonzalez's allegations were supported. (Mueller Tr. 131-132, 155-156.)

XII. THE SEPTEMBER 17, 1992 DIA LETTER

The DIA also sent a declassified version of its September 4 response in the form of a new letter from Berry to Brill, dated September 17, 1992. (OIC Ex. 89.) Berry wrote the letter after receiving a telephone call from Meltzer on September 17, in which she requested a letter to Brill confirming the answer in the DIA's September 4 letter. (Berry Tr. 59-60.) In preparing the September 17 letter, Berry spoke at least twice with Meltzer on the telephone and sent copies via facsimile to Brill and Meltzer when the letter was finished. (Berry Tr. 60.)

The DIA September 17 letter, in relevant part, stated as follows:

Specifically, in response to the 1 September 1992 DOJ letter to DIA, DIA had no information in its files concerning the ten questions other than comments on and repetition of

UNCLASSIFIED

~~SECRET~~
publicly available information dating from
after September 1989 concerning BNL-Rome and
its relation with BNL-Atlanta.

(OIC Ex. 89.) (Emphasis added.)

In drafting the response in this manner, Berry was able to exclude mention of the 12 September 1989 cable from [REDACTED] in that the [REDACTED] cable is dated during September 1989 and the letter refers to information after September 1989. Berry stated that he and William J. Allard, DIA's General Counsel, deliberately worded the letters in such a manner to "carve out" the [REDACTED] cable. (Berry Tr. 64.)

Berry stated that the DIA's effort to omit the [REDACTED] cable was not based on concerns about the substance of the cable, which the DIA had followed up on and considered to be inaccurate (Berry Tr. 15-23), but instead was based on Meltzer's request for an "unclassified" letter that would give the BNL judge a "warm fuzzy." (Berry Tr. 63, 65-67.) According to Berry, Meltzer told him that "Gerrilyn Brill needed something unclassified" and "[a] simple confirmation would be sufficient." (Berry Tr. 66.) Berry recalled that he discussed the substance of the September 17 letter with Meltzer over the telephone, but did not specifically discuss how to deal with the [REDACTED] cable. (Berry Tr. 64-65.)

XIII. THE REQUEST FOR AN UNCLASSIFIED NSA LETTER

On September 17, 1992, Meltzer also asked Kennedy at NSA for an unclassified letter responding to the DOJ's September 1 questions. Meltzer said the sentencing hearing was not going well, and that she wanted a one-line NSA letter for use in Court that

UNCLASSIFIED

essentially said that the answer to each of the September 1 questions was "No." (Kennedy Tr. 46-47, 56.)

Kennedy responded that he would take it up with his superiors, and suggested that the DOJ also make "an approach on a higher level." Kennedy then discussed Meltzer's request with NSA General Counsel Baker and Assistant General Counsel Potenza, and they in turn asked the NSA classification office to declassify the NSA's September 9 letter. (Kennedy Tr. 47-50.) Kennedy also prepared a unclassified draft of a letter answering the DOJ's September 1 request, but Baker declined to sign that letter because he was concerned that it might be misconstrued. (Kennedy Tr. 60; Stewart Baker Tr. 9-11.)

XIV. THE SEPTEMBER 21, 1992 MEETING

In anticipation that Judge Shoob would be receiving the September 17 letter as well as the CIA Summary and underlying cables, Urgenson, upon Mueller's advice, organized a meeting at DOJ with the CIA on September 21, to discuss the presentation of classified materials to Judge Shoob and to obtain an explanation of the Summary. (Urgenson Tr. 248; Jameson Tr. 155-156.) The meeting was attended by Urgenson, Clark and Meltzer of DOJ, and Jameson, [REDACTED] and [REDACTED] of the CIA. (Urgenson Tr. 248-249.) [REDACTED]

At the meeting, [REDACTED] stated that the language in the Summary was not intended to convey what Representative Gonzalez was now saying on the floor of the House and to the press. She explained that her use of the word "confirmed" in Analytical

~~SECRET~~

UNCLASSIFIED

Comment B in the Summary was not intended to assess the accuracy of information in the underlying cables. Rather, it reflected that a private source had provided the same information as a press source, thus showing corroboration of the press source, but not necessarily validating the information itself.⁴³ [REDACTED] also noted that her word "activities" and the time frame were deliberately left ambiguous, because the cables did not show that BNL-Rome had contemporaneous knowledge of "illegal activities" at BNL-Atlanta. Urgenson, among others, found these technical distinctions "a little hard to parse." [REDACTED] Tr. 99-103; Urgenson Tr. 249.)

Gerrilyn Brill, telephoned the September 21 conference room from Atlanta, and told them that she had released a public statement regarding Representative Gonzalez's, September 14 press release and the CIA Summary. Specifically, Brill's statement read:

I have reviewed the CIA report referenced in Chairman Gonzalez's September 14, 1992, press release, as well as the cables supporting the report. Mr. Gonzalez's statements in the press release are not supported by any of these documents. There is no evidence contained in either the report or the cables that BNL officials outside of Atlanta or the U.S. government had contemporaneous knowledge of Mr. Drogoul's criminal activity.

According to Urgenson, since Brill's statement was not critical of the Summary, the CIA had no objections to it. The meeting ended shortly thereafter with the understanding that Brill

⁴³According to Urgenson, [REDACTED] acknowledged that "lends credence to" would have been a more accurate choice of words than "confirms." (Urgenson Tr. 249.)

~~SECRET~~

UNCLASSIFIED

would present all the documents to Judge Shoob.⁴ (Urgenson Tr. 248-251; Brill Tr. 172-173.)

IV. THE DROGOUL SENTENCING HEARING--SEPTEMBER 17

As part of their presentation at the Drogooul sentencing hearing, the USAO put on a "summary witness," Arthur Wade, to testify about the evidence of Drogooul's wrongdoing. During the cross-examination of Wade on September 16, the Court asked several questions regarding intelligence information that the Task Force had received, and Wade gave the following answers:

The Court: Let me ask you this, Mr. Wade: In your direct testimony were any of your opinions or statements based on information that you derived from any cables that were either secret, top secret, or marked confidential?

The Witness: The testimony that I gave was based on evidence other than classified materials, something that was from another source.

The Court: But you did have access to classified materials, is that correct, in connection with your investigation?

The Witness: Yes, sir.

The Court: But what you're saying is that your testimony was not based on that information but from information from independent sources?

The Witness: Yes, sir.

The Court: And did the information in those cables lead you to information from independent sources?

The Witness: I can't recall an instance where . . . it led to another independent source.

⁴Urgenson noted that no one from the CIA voiced any objections "until Congress began to ask them questions. That's when they became uncomfortable. . . ." (Urgenson Tr. 235; 251.)

~~SECRET~~

UNCLASSIFIED

The Court: It may have but you don't know, is that what you're saying?

The Witness: It's possible, but I -- the cables were not made available until later on when most of the leads were already developed and were themselves generating leads. It was not early on.

The Court: And did any information that you received through these confidential or secret cables indicate to you that maybe you had taken the wrong path or reached the wrong conclusion as to certain events that had occurred?

The Witness: No, sir, just the opposite.

The Court: They confirmed it?

The Witness: They confirmed what was said earlier, that it was not contemporaneous knowledge or anyone within BNL.

The Court: And you haven't seen any cables that indicated otherwise?

The Witness: There were suppositions and speculations in some cables, and those speculations were similar allegations made either in the press or in independent source to the allegation in that document. They were pursued.

(OIC Ex. 101.)

Wade testified in this investigation that his answer that the cables "confirmed" the prosecution theory of the case was not misleading, although he acknowledged that his response to Judge Shoob from the witness stand could have been "more artfully stated." (Wade Tr. 83.) Wade answered the Court's question by assuming that Judge Shoob was referring to all the cables. From Wade's standpoint, the fact that he had seen no cables beyond speculation or supposition gave him "comfort" that this was "not something approved or authorized by any of the U.S. government agencies, or that our intelligence had picked up from other

~~SECRET~~

UNCLASSIFIED

intelligence sources all over the world." (Wade Tr. 84.) Wade also noted that he followed up his "confirm" response by stating that there were other cables, containing in his view, unsupported allegations, suppositions and speculation. (Wade Tr. 83.) Finally, Wade stated that he was uncomfortable testifying before "half the world, sitting in the courtroom" about what he considered to be "classified material," and that this discomfort inhibited his responses. (Wade Tr. 83, 85-87.)

On September 17, Cook moved to withdraw Drogoul's guilty plea, primarily on the grounds that United States foreign policy with Iraq had prejudiced his client's defense. The USAO objected, and the Court denied the motion on September 21.

XVI. THE COURT REVIEWS THE GONZALEZ SUMMARY - SEPTEMBER 23

On September 23, the USAO provided the Court with the CIA summary and the four underlying cables. The prosecutors offered to have CIA officials explain these cables to the Court in camera, but the Court rejected this suggestion. The next day, September 24, the Court advised that the four underlying cables did not appear to support the conclusion that BNL-Rome knew of BNL-Atlanta's illegal loans. Several days later, however, after another statement from Representative Gonzalez that offered a contrary view, the Court reversed its opinion, and stated that some of the cables supported the conclusion that BNL-Rome knew.⁸⁵ On September 25, Judge Shoob asked Brill to send a letter to the CIA asking several questions

⁸⁵I am not suggesting that Judge Shoob was influenced by Representative Gonzalez's view of the Summary and cables.

~~SECRET~~

UNCLASSIFIED

regarding the intelligence information that had been gathered regarding BNL. Brill sent a letter to Holmes that same day. (OIC Ex. 64.) Four days later, Judge Shoob asked Brill to send a follow-up letter reiterating these same questions. (OIC Ex. 65.) On September 30, Holmes responded to both letters by offering to meet with Judge Shoob in order to explain fully to him the answers to his questions: (OIC Ex. 66; Holmes Tr. 142-143.) The CIA said that explanation never was given because of Drogoul's renewed motion to withdraw his plea.⁶⁶

XVII. DROGOUL RECANTS HIS EARLIER STATEMENTS

On September 29, Drogoul took the stand at the sentencing hearing, and began to recant what he had said previously. Specifically, Drogoul testified in specific terms, for the first time, that BNL-Rome officials knew about his activities and authorized them. Based on this testimony, the USAO agreed to permit Drogoul to withdraw his guilty plea on October 1. Mueller said that this decision was made by the USAO without direction from DOJ. (Mueller Tr. Vol. 2, 23-26.)

On October 1, 1992, Judge Shoob orally granted Drogoul's motion to withdraw his guilty plea.

⁶⁶The CIA prepared several other draft responses to Brill's letters of September 25 and 29. (OIC Ex. 67.) The substance of those drafts is essentially consistent with Holmes's testimony.

~~SECRET~~

UNCLASSIFIED

XVIII. THE DISCOVERY OF NEW INFORMATION

The CIA's Office of the Inspector General has advised us of a recently discovered 30 October 1991 CIA operational cable that reported in paragraph 3:

[REDACTED]

There is no record that the CIA followed up on this report. However, the information I have reviewed during this investigation suggests that this report may be less significant than it appears on its face. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

~~SECRET~~

UNCLASSIFIED

LEGAL ANALYSIS AND RECOMMENDATIONS

I. THE INDEPENDENT COUNSEL STATUTE

Pursuant to the Independent Counsel statute, upon conclusion of my preliminary investigation,⁸⁷ I must determine whether there are "reasonable grounds to believe that further investigation" of potential or alleged wrongdoing prohibited by federal criminal law is "warranted." 28 U.S.C. §§ 592(b)(1) and 592(c)(1)(A). In making this determination, I turn to the following criminal provisions which would likely be considered by a Statutory Independent Counsel if appointed: 18 U.S.C. § 1503; 18 U.S.C. § 1505, and 18 U.S.C. § 1001.

As set forth below, each of these criminal statutes requires specific conduct performed with "mens rea" or state of mind. The Independent Counsel statute, however, only permits me to determine that state of mind is lacking if I can find that there is "clear and convincing evidence" of its absence. 28 U.S.C. § 592 (a)(B)(ii). The statute thus creates a virtual rebuttable

⁸⁷In my October 26, 1992, letter to the Attorney General (Ex. 3) in which I recommended a preliminary investigation, I did not distinguish between so-called "covered" persons, defined in 28 U.S.C. § 591(b), and non-covered persons referred to in § 591(c). As to "covered persons," the Independent Counsel statute mandates a preliminary investigation when "information sufficient to constitute grounds to investigate" has been received (§ 591 (a)). As to persons not considered "covered," a preliminary investigation is discretionary under the same circumstances. In his October 27, 1992 letter to me, in accepting my recommendation, the Attorney General asked: (a) that I commence such preliminary investigation, and (b) that I attempt to conclude it by December 8, 1992, six days before expiration of the Independent Counsel statute. As a review of this Report reveals, my investigation has been wide-ranging and has included within its reach both individuals considered "covered" persons by the statute and those not considered "covered" persons.

SECRET

UNCLASSIFIED

presumption of the statutory state of mind, a presumption that may be rebutted only by "clear and convincing evidence."

A. 18 U.S.C. §1503

Section 1503 generally proscribes the obstruction of the "due administration of justice," in connection with a judicial proceeding, by corrupt endeavor. The use of the term corruptly, together with the term endeavor, "charges an intentional act." United States v. Haas, 583 F.2d 216 (5th Cir. 1978), cert. denied, 440 U.S. 981 (1979). Generally, the Government must demonstrate that the person charged with a § 1503 offense "knowingly and intentionally undertook an action from which an obstruction of justice was a reasonably foreseeable result." United States v. Thomas, 916 F.2d 647, 651 (11th Cir. 1990) (citations omitted) (emphasis added).

The term "corruptly" connotes specific intent. See United States v. Machi, 811 F.2d 991, 996 (7th Cir. 1987) ("Corruptly means to act with the purpose of obstructing justice."); United States v. Partin, 552 F.2d 621, 641 (5th Cir.), cert. denied, 434 U.S. 903 (1977) ("The word corruptly means a defendant acted with improper motive or with bad or evil or wicked purpose."); United States v. Jeter, 775 F.2d 670 (6th Cir. 1985), cert. denied, 475 U.S. 1142 (1986) (Section 1503's mens rea requirement limits the scope of the statute to persons "who

SECRET

UNCLASSIFIED

'corruptly' or 'intentionally' seek to obstruct the due administration of justice.")⁸⁸

The term "endeavor" has been held to describe "any attempt or effort to obstruct justice." Thomas, 916 F.2d at 651 (citation omitted); see also Buffalano, 727 F.2d at 53 (defining endeavor "as 'any effort or essay to accomplish the evil purpose that the statute was enacted to prevent'" (quoting United States v. Russell, 255 U.S. 138, 143 (1921))). The government need not demonstrate that the endeavor was ultimately successful or that it achieved the desired result. See, e.g., Osborn v. United States, 87 S. Ct. 429, 434-435 (1966); Jackson, 513 F.2d at 460 ("[I]t is the endeavor to bring about the forbidden result, and not success in achieving the result, that Section 1503 makes a crime."); Thomas, 916 F.2d at 651. However, the court in Brand noted that

"Both the Fourth and Eleventh Circuits have departed somewhat from the specific intent requirement as framed by other Circuits. A recent Eleventh Circuit decision, defining the term "corruptly," constricted the specific intent element as follows:

"'Corruptly' describes the specific intent of the crime and can vary in meaning with the context of the section 1503 prosecution Although the government is not required to prove that the defendant had the specific purpose of obstructing justice . . . it must establish that the conduct was prompted at least in part, by a corrupt motive.

United States v. Thomas, 916 F.2d 647, 651 (11th Cir. 1990) (citations omitted); see also United States v. Neisvender, 590 F.2d 1269, 1274 (4th Cir.), cert. denied, 441 U.S. 963 (1979) (holding that "a defendant who intentionally undertakes an act or attempts to effectuate an arrangement, the reasonably foreseeable consequence of which is to obstruct justice, violates 18 U.S.C. § 1503 even if his hope is that the judicial machinery will not be seriously impaired.").

~~SECRET~~

UNCLASSIFIED

§ 1503 proscribes only those acts which produce or which are capable of producing an effect that prevents the due administration of justice. 775 F.2d at 1465.

B. 18 U.S.C. §1505

Section 1505 of the obstruction of justice statute applies broadly to all pending proceedings, including Congressional proceedings. Section 1505 also requires proof of specific intent, or a corrupt endeavor, to sustain a conviction.

Other than the celebrated cases arising out of the Iran-Contra scandal (see United States v. North, 708 F. Supp. 385 (D.D.C. 1988), and United States v. Poindexter, 951 F.2d 369 (D.C. Cir. 1991)), only a handful of decisions under § 1505 have considered alleged obstructions of Congressional "proceedings." See, e.g. United States v. Mitchell, 877 F.2d 294 (4th Cir. 1989), reh'g denied, 1989 U.S. App. LEXIS 13462 (4th Cir. 1989).

The requirement of § 1505 that the defendant has acted "corruptly" is given similar meaning to the "corrupt" element of § 1503. In United States v. Price, 951 F.2d 1028, 1031 (9th Cir. 1991), the court held that the "requisite intent to violate Section 1505 is . . . merely that the 'defendant must have acted 'corruptly,' i.e., that the act must be done with the purpose of obstructing justice'" (citation omitted). A similar definition was adopted in United States v. Laurins, 857 F.2d 529, 536-37, where the court held that the defendant acted corruptly by concealing documents in response to an IRS subpoena.

The District of Columbia Court of Appeals in United States v. Waldeman, 559 F.2d 31 (D.C. Cir. 1976), construing § 1503, adopted a variation of the definitions above, holding that

UNCLASSIFIED

the term "corruptly" means having an evil purpose or intent. See also United States v. Sprecher, 783 F. Supp. at 164 ("Corruptly" simply means to be motivated by an improper purpose") (citations omitted).⁸⁹ In North, however, the court cautioned:

Unlike courts of law covered by section 1503, congressional committees are part and parcel of a political branch of government and therefore serve wide-ranging political functions not limited to a search for truth in accordance with formal rules No one can seriously question that people constantly attempt in innumerable ways, to obstruct or impede congressional committees . . . but it does not necessarily follow that [it] is . . . [done] corruptly.

The Court of Appeals in United States v. Poindexter, 951 F.2d 369, 379 (D.C. Cir. 1991), in an opinion authored by then Judge Ginsburg, construed more strictly than any other court the scope of sanctionable conduct under § 1505. The Poindexter decision is an apparent retranchment from the prior decisions of the District of Columbia Court of Appeals (see North, *supra*, United States v. Lavelle, 751 F.2d 1266 (D.C. Cir.), cert. denied, 474 U.S. 817 (1985)) on the applicability of § 1505 to Executive Branch officials, although the court did not expressly overrule those decisions.

In Poindexter, the defendant was charged with obstructing congressional inquiries into the Iran-Contra scandal. The

⁸⁹ The absence of "illegal means" does not mean that the allegedly violative conduct is not corrupt. Mitchell, 877 F.2d at 298. The court in Mitchell stressed that the crucial inquiry focuses on "whether a defendant had the requisite corrupt intent to improperly influence the investigation, not on the means the defendant employed in bringing to bear this influence." *Id.* at 299.

~~SECRET~~

UNCLASSIFIED

Poindexter court deemed the term "corruptly" as used in § 1505 to be so vague as to "provide [no] constitutionally adequate notice that it prohibits lying to Congress." Poindexter, 951 F.2d at 379. In an elaborate analysis of the statute, the court suggested that acting "corruptly" oneself would not necessarily be violative of § 1505, and interpreted the statute to proscribe corrupting another by influencing that individual to violate his own legal duty.

With the notable exception of Poindexter, courts interpreting § 1505 have generally construed broadly the range of "endeavors" covered by § 1505. In Mitchell, for instance -- a case proscribing an endeavor to stop a congressional investigation -- the court held that any effort or act "when done with the requisite intent to corruptly influence a congressional investigation, violates [§ 1505]." Mitchell, 877 F.2d at 299.

Endeavors proscribed by § 1505 have included directing an individual to destroy records responsive to a DOE subpoena, Sutton, supra; supplying false testimony and directing an individual to alter sales invoices and submit them to an inquiring agency, Fruchtman, supra; deliberately concealing matters material to an SEC investigation, Spracher, supra; submitting a false document in response to a subpoena issued by the IRS, United States v. Vixie, 532 F.2d 1277 (9th Cir. 1976); supplying evasive answers and concealing knowledge (i.e., feigning forgetfulness) in testimony at SEC investigative hearings, United States v. Alo, 439 F.2d 751 (2d Cir.), cert. denied, 404 U.S. 850, reh'g denied, 404 U.S. 961 (1971); altering, concealing, or withholding records which, according to the indictment, bore a "reasonable relation" to the subject matter of a Senate Committee inquiry, United States v.

UNCLASSIFIED

Presser, 292 F.2d 171 (6th Cir. 1961), aff'd by an equally divided court, 371 U.S. 71 (1962); and influencing a witness to give false information and testimony to a Senate Committee and its investigators, Stein v. United States, 337 F.2d 14 (9th Cir. 1964), cert. denied, 380 U.S. 907 (1965).

C. 18 U.S.C. §1001

Section 1001 proscribes (1) the knowing and willful falsification or concealment of a material fact; (2) the making of any false or fraudulent statement or representation; and (3) the making or using of a false writing or document with knowledge that it contains a false or fraudulent statement "in any matter within the jurisdiction of any department or agency of the United States."

A "concealment" is an "affirmative act by which a material fact is actively concealed." It must be more than a mere passive failure to disclose. U.S. v. Shannon, 836 F.2d 1125, 1130-31 (8th Cir.), cert. denied, 486 U.S. 1058 (1988). A "false statement" is a statement which "is designedly untrue . . . and made with intention to deceive the person to whom the false statement is made or exhibited." U.S. v. Worthington, F.2d 315 (2d Cir.), cert. denied, 484 U.S. 944 (1987). A "false writing" is merely a false statement inserted into a writing. Cf. Devitt, et al., SUPRA, at 450.

The materiality requirement of the statute may be met if the false statement has "the capacity to impair or pervert the function of a government agency." U.S. v. Lichtenstein, 610 F.2d 1272, 1278 (5th Cir.), cert. denied, 447 U.S. 907 (1980):

The test of 'materiality' is whether the statement 'has the natural tendency to

UNCLASSIFIED

influence, or was capable of influencing, the decision of the tribunal in making a [particular] determination.' Proof of actual reliance on the statement is not required; the Government need only make a reasonable showing of its potential effects.

U.S. v. Diggs, 613 F.2d 988, 999 (D.C. Cir. 1979), cert. denied, 446 U.S. 982 (1980) (quoting Weinstock v. U.S., 231 F.2d 699, 701-702 (D.C. Cir. 1956) (footnote omitted)).

The false statement, concealment or omission must be made "knowingly and willfully." Typically, courts interpret these two terms as a unitary concept requiring proof that the defendant made the statement deliberately (and not as the result of a mistake or accident), with knowledge that the statement was false, and with "specific intent." See, e.g., U.S. v. Guzman, 781 F.2d at 431; U.S. v. Lichtenstein, 610 F.2d at 1277. Several circuits describe specific intent as follows:

The statement must have been made with an intent to deceive, a design to induce belief in the falsity or to mislead, but § 1001 does not require an intent to defraud -- that is, the intent to deprive someone of something by means of deceit.

United States v. Lichtenstein, 610 F.2d 1272, (5th Cir. 1980). See also U.S. v. Corsino, 812 F.2d 26, 29 (1st Cir. 1987); U.S. v. Martin, 772 F.2d 1442 (8th Cir. 1985).

Despite the specific intent requirement, some courts have allowed the "knowingly and willfully" element of the clause to be satisfied by proof that the defendant acted "with reckless disregard of the truthfulness of the statement and with the conscious purpose to avoid learning the truthfulness of the statement." U.S. v. Evans, 559 F.2d 244, 247 (5th Cir. 1977). See

~~SECRET~~

UNCLASSIFIED

also, U.S. v. Hanlon, 548 F.2d 1096, 1100-01 (2d Cir. 1977); United States v. Lange, 528 F.2d 1280, 1288 (5th Cir. 1976).

Given the constraints the Independent Counsel statute imposes on the proof upon which I may rely for "state of mind" findings, in conducting my investigation I examined the words and deeds of individuals and was prepared to infer wrongful intent as suggested by events unless "clear and convincing evidence" demonstrated otherwise.

After having carefully studied all of the information I have assembled, as analyzed and discussed in the body of this Report, I conclude that in each instance, the evidence is indeed clear and convincing that the requisite intent to obstruct the Drogoul prosecution was lacking on the part of those involved or against whom interference has been charged. In fact, I have found that there is no credible evidence to suggest otherwise.

In all other instances, including those that have received the highest scrutiny by the public and Congress, I have found no credible evidence that any person in the DOJ or the USAO acted with the requisite intent to obstruct the due administration of justice in connection with a judicial, Congressional or any other proceeding, or to make any false statements to any department or agency of the United States. Absent any credible evidence, the "clear and convincing evidence" necessary to overcome the presumed intent under 28 U.S.C. § 592(a)(B)(ii) is clearly met. Although not within the scope of my inquiry, my investigation does suggest that with respect to the conduct of Mr. Kloske, a possible exception may exist, and the Attorney General may wish to consider further investigation.

SECRET

UNCLASSIFIED

II. ANALYSIS UNDER THE INDEPENDENT COUNSEL STATUTE

As noted above, the Boren Committee and the House and Senate Judiciary Committee letters of October 1992 allege essentially that attorneys at DOJ and representatives of the CIA made misleading statements to, and withheld relevant information from, Judge Shoob and the USAO regarding certain intelligence information on the BNL matter in September 1992.⁹⁰ I address this broad allegation in the following analysis that is governed by the Independent Counsel Statute.

First, I consider whether the DOJ or the CIA withheld relevant intelligence information from the USAO in order to obstruct the BNL prosecution. Second, I analyze whether misrepresentations were made to Judge Shoob in the USAO's Sentencing Memorandum dated September 11, 1992, or in Arthur Wade's testimony at the sentencing hearing. Third, I assess whether the DOJ's release of the September 17 letter, and the DOJ's decision not to issue the CIA's September 18 statement, were designed to mislead the Court and the public, and obstruct justice. Fourth, I discuss the DIA's September 17 letter and the Brill public statement on September 21.

A. Was Any Intelligence Information Withheld From The USAO?

I conclude, based on my investigation of all the facts set forth above, that no intelligence information was deliberately

⁹⁰During my investigation, I found nothing that suggested that DOJ or CIA representatives had withheld information regarding U. S. intelligence agencies and their involvement in, or contemporaneous knowledge of, BNL-Atlanta's unlawful conduct. As a result, my analysis focuses on intelligence information regarding whether "BNL-Rome knew."

~~SECRET~~ UNCLASSIFIED

withheld from the USAO by the DOJ or CIA to obstruct the BNL prosecution. Although the USAO did not receive certain intelligence information before the Drogoul sentencing hearing (e.g., the 31 January 1990 [REDACTED] letter and the CIA Summary), that was the result of inadequate procedures at the CIA for tracing, analyzing, and disseminating such information.

1. DOJ Provided Full Access to Information

There is really no dispute that the USAO had complete access to intelligence information gathered by the DOJ. As early as December 1990, Clark's memorandum to McKenzie invited her to review information that DOJ was gathering on the USAO's behalf. (OIC Ex. 29.) Members of the USAO or its Task Force reviewed the documents at DOJ on at least three occasions: in December 1990 or January 1991 by Agent Wade; on September 13, 1991 by Agents Wade and Horton; and on April 30, 1992 by McKenzie, Chartash, and Agent Wade, at which time they were given an index to all the intelligence reports on file at the DOJ.

McKenzie viewed the USAO's access to the intelligence documents at DOJ as an "open invitation," and Clark believed that McKenzie had ample opportunity to review all intelligence information. (McKenzie Tr. 57.) There is no evidence that DOJ ever denied the USAO access to this information, or withheld any documents from the USAO.⁹¹

⁹¹Although the USAO was not permitted to take copies of CIA cables to Atlanta, that restriction is common for such materials, and it does not imply that the USAO was denied access. Similarly, NSA and NSC documents were not concealed or withheld from the USAO, but because the field prosecutors in the USAO lacked the appropriate clearances to review such documents, it had to rely on oral briefings from the DOJ on those materials.

~~SECRET~~ UNCLASSIFIED

It is true that the DOJ assumed responsibility for requesting, reviewing, and analyzing intelligence information on behalf of the USAO in this case. But that does not suggest that DOJ attorneys were withholding or concealing that information. To the contrary, the DOJ requests for information to the Intelligence Community were comprehensive and broader than the requests suggested by the USAO, and Greenberg and Clark proceeded to review and follow up on most, if not all, of the information they received.⁷² Similarly, when Meltzer sought intelligence information by sending out the DOJ's September 1, 1992 letters, she was doing so to help the USAO pursue leads from the Drogoul debriefings, and she promptly provided all the responses to McKenzie in Atlanta. Although the gathering and assessment of intelligence information by DOJ attorneys was not as thorough as it should have been, which I consider below, it did not reveal any effort to influence improperly or obstruct the BNL investigation.

⁷²While the Clark and Greenberg letters to the Intelligence Community never asked specifically whether "BNL-Rome knew," both believed that their broad requests called for, and actually obtained, such information. Nonetheless, the failure of anyone to ask this specific question of the Intelligence Community is curious, given the importance of this issue in the case at that time and the heated debate between DOJ and the USAO. I received given no satisfactory explanation for the failure to ask this question.

~~SECRET~~

UNCLASSIFIED

2. Inadequate Procedures at DOJ for Requesting and Reviewing Intelligence Information

Even though I conclude that the USAO was permitted full access to intelligence materials obtained by the DOJ, I am disturbed by the confusion and carelessness that characterized the manner in which the DOJ and the USAO pursued, reviewed, and analyzed information from the Intelligence Community. These shortcomings ran throughout this matter, and greatly contributed to the events in September 1992.

From the outset, confusion reigned on the subject of who was responsible for handling BNL-related intelligence issues, and this led to a delay of several months in the gathering of these materials. Rukstele, McKenzie and Wade each believed that Clark and Greenberg received this assignment from Urgenson by virtue of DOJ's greater familiarity with, and access to, the Intelligence Community. Urgenson thought that Greenberg and Clark were handling the issue and did not monitor their efforts because of their experience. Greenberg, on the other hand testified that Urgenson told him to hold off on the inquiries. Clark disagreed with everyone, saying that the USAO had failed to carry out this assignment, despite assuring him that "the FBI" would do so.¹³ No one here is blameless. Such uncertainty should never occur where experienced prosecutors are dealing with sensitive intelligence matters, and particularly in a major case such as this.

¹³Clark's alleged reliance on the USAO's purported statement that "the FBI" was handling the intelligence inquiries is curious. Whether or not Rukstele or McKenzie told Clark that the FBI was handling intelligence matters (and they deny making such statements), Clark would know that the FBI was not the appropriate avenue for such inquiries.

~~SECRET~~

UNCLASSIFIED

There was a similar shrinking from responsibility with respect to the review, analysis and follow-up on intelligence information after it was gathered by the DOJ. Greenberg assumed that Clark and Urgenson were responsible. Urgenson thought that the matters were being handled by Clark and Greenberg. Clark thought that the USAO ultimately had to perform these tasks, and the USAO again looked to the DOJ as having taken charge.

In this race for cover, I could not find a single person at the DOJ or the USAO who could say with certainty that he or she had reviewed and analyzed every intelligence report, and followed up on those that were most important, at any time during the BNL investigation or prosecution.⁴ During October and December 1990, for example, the DOJ received several reports from the Intelligence Community that were significant on their face, including the 12 January 1990 CIA cable [REDACTED]

[REDACTED] the 5 October 1989 CIA cable [REDACTED] and the 12 September 1989 DIA cable (discussing NATO collusion with BNL). Yet there are no records of any analysis or follow-up on these cables, and the recollections of Clark and Greenberg are now sketchy at best. As a result, a strong suspicion emerges that the BNL intelligence information was not fully reviewed or followed up on during the period before the Indictment was returned in this case. [REDACTED]

In the period after the Indictment, the situation is no better. The USAO and the Task Force admit to only a cursory review

⁴Clark and Greenberg had a general recollection of reviewing and following up on some documents, but both pointed to others as having ultimate responsibility. NSA has stated that Greenberg and Clark's review of NSA materials was never completed.

~~SECRET~~

UNCLASSIFIED

of intelligence materials even on April 30, 1992, shortly before the expected trial of Drogoul.⁷⁵ Moreover, there is no evidence that Meltzer ever reviewed the cables that had been gathered, even when she was assigned to follow up on intelligence issues in September 1992. I would have expected a far more thorough effort and a clear delineation of responsibility on intelligence information issues.

The events of September 1992 arose largely because the DOJ and the USAO were unaware of what specific intelligence information they had received and reviewed. Had Clark, Greenberg, or anyone else documented their efforts, the DOJ might have recognized that the CIA's answer to Question 8 in the September 17 letter was an incomplete statement, as discussed below. To avoid a repetition of these events in some future case, procedures should be adopted to ensure that careful and thorough analysis and follow-up of all available intelligence is the rule in all investigations.

Moreover, as discussed previously, there were wholly inadequate procedures at DOJ for internal routing of intelligence information regularly disseminated to it by the Intelligence Community. Two cables dated 20 April 1990 and 22 February 1991, which were disseminated by the CIA to the DOJ through normal channels, were never routed to the DOJ Fraud Section or the USAO, even though they related to whether "BNL-Rome knew." These internal routing procedures must be improved immediately so that a respected institution like the DOJ will not again be embarrassed by effectively "losing" valuable intelligence information.

⁷⁵McKenzie explained that she reviewed the materials more for new investigative leads than for trial.

~~SECRET~~

UNCLASSIFIED

3. The CIA Provided Incomplete Information To The DOJ

The CIA did not provide complete intelligence information to the DOJ in the BNL matter, despite broad requests by the DOJ. For example, in the Fall of 1990, the CIA failed to produce the 31 January 1990 letter from CIA's [REDACTED] to USDA's David Kunkel, even though that letter had transmitted the 6 November Typescript and stated that there was "new" information that BNL-Rome knew of BNL-Atlanta's unlawful activities.⁶⁶ Further, the CIA produced several other intelligence cables regarding BNL that were never disseminated in the normal channels outside the CIA.

The CIA also neglected to provide the DOJ with information that it prepared internally after responding to the DOJ's 1990 requests, including the CIA Summary prepared for Representative Gonzalez in October 1991. Finally, the CIA's September 4, 1992 letter was incomplete, because it suggested that the CIA only had "publicly available" information on the subject of whether "BNL-Rome knew," when in fact the CIA had private-source information on the subject.

I do not conclude, however, that the CIA's failure to provide complete information was deliberate, or part of an effort to obstruct the BNL prosecution. Rather, the CIA's failure appears to be based on inadequate procedures for retrieving and producing information to the DOJ generally, and on the CIA's inadequate

⁶⁶Regrettably, it appears that this letter was also not forwarded by Kunkel to Wade of the USDA's Office of Inspector General, who served on the USAO Task Force. (Wade Tr. 60-61.) Wade did not see this letter until on or about November 1, 1992. (Id.)

~~SECRET~~

UNCLASSIFIED

review of its own information by the CIA before sending the September 4 letter.

There is no explanation for the CIA's October 1991 Summary not being forwarded to DOJ when it was produced for Representative Gonzalez, other than carelessness or inadequate procedures. According to a routing slip, a copy of the Summary went to the CIA's Office of General Counsel when it was prepared, and adequate procedures should have ensured that the Summary was passed on to the DOJ pursuant to its earlier requests.⁹⁷

With respect to the CIA's September 4, 1992 letter, David Holmes, the agency's Deputy General Counsel, admitted that the answer to Question 8 was incomplete, and that the CIA's review of the appropriate materials was inadequate. Although Holmes's subordinate, [REDACTED] stated that he conducted a thorough review of all the materials on file, his testimony is at odds with that of CIA analyst [REDACTED] and Holmes. [REDACTED] stated that when [REDACTED] called her to ask about sources on the subject of whether "BNL-Rome knew," she gave him only her recollection that there were public sources, and said she would have to check her file on private sources. [REDACTED] recalled that [REDACTED] did not pursue the matter with her, despite her past involvement in the matter.

Holmes testified that [REDACTED] had failed to consider the 12 January 1990 CIA cable before drafting the response to Question 8. That cable reported [REDACTED]

⁹⁷ [REDACTED] name appeared on the routing list, although he denied ever seeing the Summary until the Gonzalez press release on September 14. If [REDACTED] did not receive the Summary in the normal course, that underscores the lack of adequate procedures.

~~SECRET~~

UNCLASSIFIED

██████████ In contrast, ██████████ testified that he reviewed the 12 January 1990 cable in preparation of his response to the September 1, request. ██████████ stated that, based on his reading of the letter and his conversations with Meltzer, the September 1 request sought "institutional knowledge" of BNL-Rome, rather than the knowledge of the mid-level official cited in the cable. ██████████

No matter whose testimony is accurate, it is clear to me that the September 4, 1992 letter should have received greater care and closer scrutiny by everyone involved, including the CIA supervisors, Holmes and Jameson. The CIA routinely "downstreamed" DOJ information requests to paralegals and junior staff attorneys for a response, and this process may account for the erroneous and inadequate responses submitted here. I am pleased to have been advised that Director Gates has ordered an intensive review of the CIA's procedures for dealing with instances such as the BNL case presented.

B. Were Misrepresentations Made To The Court In the September 1992 Sentencing Memorandum or Wade's Testimony

I conclude, based on my investigation of all the facts set forth above, that there were no false statements made to Judge Shoob by the DOJ and the USAO in their September 11, 1992 Sentencing Memorandum, or any endeavor to obstruct justice by those statements. In particular, the Sentencing Memorandum stated, at page 34, that "no credible evidence has been uncovered that supports [Drogoul's] suspicion that other officers at BNL ... knew of his illegal activities."

~~SECRET~~

UNCLASSIFIED

Technically, this statement was correct. All the intelligence information in DOJ's own files at the time on the subject of whether "BNL-Rome knew" was not credible in the view of the DOJ and the USAO because it had been discredited by the USAO's investigation. Further, the cables consisted of hearsay statements inadmissible as "evidence."

However, I find such technical distinctions to be less appropriate than in this case, where there was such a bright focus on whether "BNL-Rome knew." Judge Shoob had raised the issue at the June 2 plea hearing, and made it very clear that the issue would be addressed at the sentencing hearing. The Drogoul debriefings also raised the question as to BNL-Rome's complicity, as did various press articles. Under these circumstances, the Sentencing Memorandum should have candidly stated that there were intelligence reports in the DOJ's possession that suggested that "BNL-Rome knew." If the DOJ and USAO believed that those reports were based on speculation, or raised inferences that had already been rebutted by their investigation, that could have been stated as well.

Brill, McKenzie, and Chartash stated that this statement in the Sentencing Memorandum was drafted by Meltzer, and that they relied on her to address the intelligence information issue. This is a curious reliance, since by this time McKenzie and Chartash had reviewed all the cables on at least one occasion (April 30, 1992), whereas Meltzer, a relative newcomer to the matter, had not seen any cables. Although McKenzie said that Meltzer had consulted with "Justice" during the preparation of this Memorandum, it is unclear

~~SECRET~~

UNCLASSIFIED

who that person at DOJ was, because Clark said he was never asked to review the Memorandum.

This pervasive reluctance at the DOJ and the USAO to accept responsibility is very troubling. All of these people had ready access to the pertinent intelligence information, and someone on the prosecution team should have conducted a careful review before a statement on the issue was made to the Court. Alternatively, Clark should have been consulted and included in such a review. Had such a review been made, I am confident that it would have resulted in a Sentencing Memorandum that met a higher and more appropriate standard.

My view that carelessness was prevalent throughout this matter is reinforced by the fact that when Meltzer reviewed the September 4 letter, she immediately questioned the CIA's response to Question 8, even without reviewing any cables, as indicated in her September 4 E-Mail to Urgenson. This is not surprising, because the CIA's answer to Question 8 appears to me to be incomplete on its face. However, there is no record that anyone (including Brinkac, who was assigned the task by Meltzer) followed up on this answer before the Sentencing Memorandum was filed. If Meltzer in fact relied on the CIA's answer to Question 8 in drafting her answer, which I suspect she did, then she was clearly negligent.

I recognize that the USAO and Meltzer were under great time pressure to prepare for the sentencing hearing, and had many important tasks to complete other than to deal with just one statement in the Sentencing Memorandum. Mueller and Urgenson have also described how occupied they were on other matters. However, time

~~SECRET~~

UNCLASSIFIED

pressures, no matter how severe, cannot excuse statements to the Court that are anything less than full and complete. Meltzer, McKenzie, Brill, and Chartash must accept principal responsibility for their cavalier performance, but Mueller and Urgenson have to share the blame for failing to provide supervision.

With respect to Wade's testimony at the sentencing hearing on September 16 that discusses intelligence information, I conclude that his answers taken as a whole were not inaccurate or misleading. Nor did the USAO fail to exercise its responsibility to ensure accurate testimony. Wade incorrectly stated at first that all the intelligence reports he reviewed "confirmed" the prosecution's theory that BNL-Rome did not know of BNL-Atlanta's "off-book" loans. (Wade Tr. 81.) As noted above, some of the cables that Wade reviewed on their face contradict, rather than confirm this theory, even if they were eventually discredited against the background of the Task Force's investigation. However, after the Court questioned this response, Wade then amended his testimony by noting that there were additional cables that were inconsistent, but that they could be discounted for one reason or another. (Wade Tr. 82-83.) Although this was not the preferable method of providing testimony, it does not rise to the level of a misrepresentation to the Court.

C. Was The Release Of The September 17 Letter, And The Withholding Of The September 18 Statement, Misleading?

I conclude that the CIA's September 17 letter, from Holmes to Brill, standing alone, was incomplete when it was released. However, I have found no evidence that Mueller and

~~SECRET~~

UNCLASSIFIED

Urgenson intended to mislead the Court or the public, make a false statement, or obstruct justice. Rather, the clear and convincing evidence shows that the September 17 letter was an ill-advised reaction by Mueller and Urgenson to allegations of a DOJ "cover up."

I also conclude that the September 18 statement was not withheld because of any endeavor to conceal or obstruct by Mueller, and that the DOJ properly concluded that the Summary and the underlying cables should be provided to Judge Shoob for his review.

1. The September 17 CIA Letter

When the September 17 letter was released, the CIA's answer to Question 8 was incomplete. Question 8 asked whether the CIA had "any information that BNL-Rome was aware of the illegal activities engaged in by BNL-Atlanta." (Emphasis added.) The CIA's answer stated only that the CIA had "publicly available" information on that subject, and said nothing about the private-source intelligence information in the CIA's and DOJ's possession.

That private source information included the three cables underlying the CIA's October 1991 Summary, all of which suggested on their face that BNL-Rome knew of BNL-Atlanta's unauthorized loans to Iraq. It also included the 12 January 1990 cable [REDACTED] All of this information should have been included in the answer to Question 8 to make it fully complete [REDACTED]

Even though the September 17 letter was incomplete when it was released, I find there is clear and convincing evidence that there was no intention to mislead the Court or the public, make a

~~SECRET~~

UNCLASSIFIED

false statement, or obstruct justice. Mueller and Urgenson had decided that the September 17 letter would be accompanied by a full explanation from the CIA about the Summary and the cables, and that all these documents would be presented to Judge Shoob for his review. Even though the full CIA explanation never materialized, for reasons discussed below, the fact that the Summary and the underlying cables were presented to Judge Shoob within a few days demonstrates clearly and convincingly an intent to disclose fully all information, and effectively rebuts any suggestion that there was some effort to conceal.

It is true that Mueller and Urgenson did not disclose the 12 January 1990 CIA cable, even though that cable had been in the DOJ's possession since October 2, 1990, and had even been the subject of a note by Urgenson on that date. However, I have searched hard for some indication that Urgenson and Mueller were aware of that cable in mid-September 1992, but have found nothing to support such awareness. As astonishing as it may seem, both of these career prosecutors, who had many years of experience, failed to go back to the files themselves to review all the cables, and never directed anyone else to conduct such a review, before seeking the release of the September 17 letter. While this was certainly negligent under the circumstances, it does not suggest any intent to conceal or deceive.

It is of interest to inquire into whether Mueller and Urgenson had some wrongful motive to conceal information that "BNL-Rome knew," as Representative Gonzalez has suggested. Mueller and Urgenson have both explained that their purpose in seeking a declassified version of the September 4 letter was to correct the

...

~~SECRET~~

UNCLASSIFIED

public misperception that the DOJ had been "covering up" the information in the CIA Summary. In other words, Mueller and Urgenson were not seeking the release of the September 17 letter to support the USAO's theory that Drogoul acted alone. Rather, they were seeking release of the letter to establish that the CIA did not tell the DOJ about the information that Representative Gonzalez said was in the Summary.¹⁰ This was clearly ill-advised, because they should not have been seeking to rely on any statement in this case that could be deemed incomplete. But it does show clearly and convincingly that Mueller's and Urgenson's intention was not to promote the incomplete answer to Question 8 in the September 17 letter.

More fundamentally, it is difficult for me to see any reason why Mueller and Urgenson would intentionally seek the release of an incomplete answer to Question 8. I have found no evidence that their superiors at the DOJ, or any other senior officers in the Executive Branch, tried to influence improperly Mueller and Urgenson in the BNL matter. In fact, I have found, after extensive investigation, that the DOJ and USAO prosecutors acted independently throughout.

Nor have I found any reason why Mueller and Urgenson would be concerned as to whether the answer to Question 8 referred to "publicly available" intelligence information or private source information. Indeed, they had reached the conclusion, after studying the Summary and the underlying cables, that the private

¹⁰The first paragraph of the September 17 letter is drafted to suggest that it is not conveying any new information, but rather is only confirming that the CIA had given the DOJ certain information in the past.

~~SECRET~~

UNCLASSIFIED

source information in the cables was probably favorable to the prosecution. The cables provided no real support for the allegation that "BNL-Rome knew," and strongly suggested that the Analytical Comment B in the Summary was simply wrong if it was read to mean that "BNL-Rome knew." Why then would they have any incentive to conceal this information? Their incentive was just the opposite: they would want to show everything to Judge Shoob in order to rebut Representative Gonzalez's allegation that the CIA Summary was significant evidence that "BNL-Rome knew."

There have been allegations that Urgenson at DOJ gave "strong advice" to Jameson at the CIA not to change the answer to Question 8. Urgenson denied that he gave Jameson such firm advice, and said that he had only told Jameson that any change would require a full explanation. Urgenson also said that he was afraid that any changes to the answers after-the-fact might inspire further charges of a cover-up.

Even if Urgenson did give "strong advice" not to change the letter without an explanation, I find by clear and convincing evidence that his intent was not to mislead or conceal on the issue of whether "BNL-Rome knew," but rather to obtain a declassified version of the information he had received in the past, in order to rebut charges that DOJ had known about and covered up the Summary.

In any event, Urgenson's advice did not sway Holmes and Jameson. They testified that they did not view Urgenson's advice to be an effort to influence them improperly, and they decided to release the letter on their own, without regard to Urgenson's comments. Holmes also testified that he and Jameson did not

~~SECRET~~

UNCLASSIFIED

believe at the time that the September 17 letter was inaccurate or misleading.

I must emphasize that I do not in any way countenance the cavalier manner in which the DOJ sought to have this September 17 letter released. No one in the DOJ engaged in the very basic task of determining whether the answer to Question 8 was complete. Rather, Mueller and Urgenson ignored the 12 January 1990 cable in their files and the substance of the CIA's answer to Question 8, thinking that it was secondary to their public relations effort to shift the blame to the CIA. Such conduct is unacceptable.

2. The September 18 Statement

Mueller's decision not to release the CIA's September 18 letter is legitimate given his reasons for believing that the statement could have been misleading, and Holmes's acknowledgement that the statement did not satisfy the purpose for which it was drafted. I find by clear and convincing evidence that there was no intent to obstruct justice or make false statements here.

Specifically, Mueller testified that he was uncomfortable with the words in the CIA September 18 statement that "neither the [CIA] summary nor the [underlying cables] permit the definitive conclusion that BNL-Rome was aware that BNL-Atlanta was engaged in illegal activities." That language suggested to Mueller that these documents permit some conclusion -- although not a "definitive" one -- to be drawn along those lines, when in fact the cables underlying the CIA Summary do not permit such a conclusion. This was a legitimate concern under the circumstances.

~~SECRET~~

UNCLASSIFIED

Holmes also testified that the September 18 statement had been modified by the CIA to the point where it no longer addressed its original purpose, which was to respond to Representative Gonzalez's September 14 press release by providing a full explanation of the CIA Summary and the underlying cables. Rather, it amounted to an effort by the CIA to retreat from its answer to Question 8 in its September 4 letter, without fully explaining why. Because Mueller was expecting an entirely different statement from the CIA, it was reasonable for him to reject the document sent to him on September 18.

Regardless of these points, the critical fact is that when Mueller decided not to release the September 18 statement, he decided on that same day to offer the Summary and the underlying cables to Judge Shoob in camera, to ensure that the Court was aware of these documents, and to let him draw whatever inferences he thought were appropriate. He also advised Urgenson to meet with the CIA on Monday, September 21, to try to get a full explanation orally for the Summary and the underlying cables, and also to ensure that these documents could be given promptly to Judge Shoob. I find clear and convincing evidence that Mueller fully intended to disclose all information, and that he lacked the intent to mislead or obstruct.

D. The DIA's September 17 Letter

Although the DIA's September 17 letter has received less attention, I must point out that it was also incomplete. As noted above, the DIA had produced one cable dated 12 September 1989 indicating that BNL-Rome may have known about BNL-Atlanta's

~~SECRET~~

UNCLASSIFIED

activities. But that cable was not mentioned in the DIA's September 17 letter, because Berry carefully limited its scope to information gathered since September 1989, and "carved out" all information prior to that time. As I noted earlier, such "wordsmithing" is clearly unacceptable, and should be viewed unfavorably. However, I found no evidence suggesting that the DIA's letter was produced this way at the request of anyone at the DOJ, or that this letter was ever released to the Court or the public. Thus, I conclude there was no evidence of an endeavor by DOJ to mislead or obstruct justice.

E. Brill's September 21 Statement

The public statement by Brill on September 21 has also received little notice. I cover it here simply to be as thorough as possible in addressing all DOJ activity that might be questioned. I find by clear and convincing evidence that this statement was not intentionally false or misleading, or an endeavor to obstruct justice. By this time, Brill had studied the Summary and the underlying cables, and had determined that, for several reasons, the cables did not support the allegation that BNL-Rome knew. Her statement was therefore fully supported.

~~SECRET~~

UNCLASSIFIED

CONCLUSIONS

Based on all the foregoing, I conclude that:

1. There is no evidence that the DOJ withheld any intelligence information from the USAO. However, there is evidence of inadequate procedures and a careless approach to intelligence information that must be corrected.

2. The statement in the September 11, 1992 Sentencing Memorandum is not incorrect or misleading. However, its method of preparation reflected a lack of due care.

3. The September 17 CIA letter was incomplete, but I find that there is clear and convincing evidence that Mueller and Urgenson lacked the intent to conceal or mislead. There is also clear and convincing evidence that the September 18 CIA statement was not withheld for any improper reason.

4. The DIA's September 17 letter and the Brill September 21 statement do not give rise to any claim of wrongdoing by any DOJ official.

WILLIAM SAFIRE

Anatomy of a Coverup

WASHINGTON

Let me take you behind the scenes in the exposure of a scandal, as the irresistible forces of inquiry slam into the immovable stone wall of coverup.

In Iraqgate, the Bush Administration arranged for billions in unlawful financing of Saddam Hussein through the Atlanta office of Italy's Banca Lavoro. To avert embarrassment after Saddam's double-cross, our Justice Department conspired with Italy to obstruct the investigation of Saddam's bankers and Bush's top aides.

This week, the forces of inquiry got a bible to work from: "Spider's Web: The Secret History of How the White House Illegally Armed Iraq." Alan Friedman — whose reports in *The Financial Times* and on ABC's

filibuster, George Mitchell, the majority leader, assures me: "I will bring up the bill for a vote before the Thanksgiving recess." We'll see.

Behind that stone wall is another stone wall: Attorney General Janet Reno. When asked if she would seek a special prosecutor from the court if the law passed, she tells me: "I have no conflict of interest on Iraqgate." In other words, she will profess to be a Democrat investigating a Republican Administration's crimes, and will refuse to honor Bill Clinton's promise of independent counsel.

Her protestation of no-conflict is a charade: the former Criminal Division chief who stands to be investigated in the Banca Lavoro damage control is Ed Dennis, the whitewasher chosen by Reno's deputy to find "no blame" in her Waco blunder. It's all one cozy, self-protecting establishment; but when asked if Justice's Criminal Division can investigate itself, Reno replies blithely, "It's my Criminal Division now."

Do not lose heart; persistence pays. Last February, revelations in *The New York Times* forced the Senate Intelligence committee into reporting that C.I.A. told Justice about Rome's corrupt involvement, following which everybody lied. But that staff report was fuzzy; I submitted 28 groups of questions following leads in it.

Example: the report read "the chief prosecutor and chief investigator on the case were part of a Justice delegation which met with the Italian ambassador..." I asked: "Who were these two Americans? Who arranged this meeting and where was it? Were minutes kept? Was this the same Italian ambassador [Petrignani] who saw Attorney General Thornburgh at a White House reception? Did Senate staff ask why a memo was prepared by the chief of the Criminal Division [Dennis] for the AG three days before the approach at the White House?"

Committee staffers, who did not want to admit they failed to ask the right questions, stonewalled. But recently I sat next to the co-chairman at a dinner and lo! the staff found time to answer my questions seriatim. (In the example given, the Americans were Justice's Gail McKenzie and Agriculture's Art Wade, and no, the hurried committee staff did not think to ask the follow-ups.)

That's how the battle between revealers and resisters goes on. Justice will prevail when somebody in Justice goes to jail. □

Probers vs. stonewallers.

"Nightline" have helped move the revelations along — brings together the story that most media have shied away from because corruption's great friend is complexity.

In Congress, the relentless Inspector Javert of Iraqgate — House Banking chairman Henry Gonzalez — will take testimony from the convicted Atlanta branch manager who is the designated fall guy for higher-ups in Rome and Washington.

Also subpoenaed is Rinaldo Petrignani of Rogers & Wells, who as Italian Ambassador made the approach to Bush's Attorney General for the "damage control" that Dick Thornburgh denies ordering. But my friend Rinaldo, who was only doing his country's bidding, is also being sought by Italian authorities on a bribery charge and may be too busy to finger American culprits.

That's what revelation has going for it this week. But the forces of inquiry can do little without a court-appointed independent counsel, which calls for passage of a new law.

On the side of stonewalling is a group of Republican senators led by John McCain, protected by Bob Dole, who want to delay a floor vote on the independent counsel bill. They have high-sounding excuses, but the real reason is to drag a foot until the 1989 crimes of Iraqgate come under the statute of limitations. Despite no agreement from Republicans not to

New York Times
Nov. 8

The President Was Very, Very Mad

By Alan Friedman

The full truth has not yet been told about how the White House illegally armed Iraq during the Reagan Administration and then engaged in a wide-ranging cover-up that personally involved President George Bush and his national security adviser, Brent Scowcroft.

Getting that truth out may seem politically awkward for the Clinton Administration at a time when it needs to work with Republicans on issues like health care reform and free trade. But information about to be made public should prove that a serious investigation — by the Justice Department or, preferably, a special prosecutor — is urgently needed.

Until now the scandal known as Iraqgate has revolved mainly around the court case of a lowly bank manager in Atlanta who provided \$5 billion in loans to Iraq that fueled Saddam Hussein's nuclear and chemical weapons projects. That manager, Christopher Drogoul of the Atlanta branch of the Banca Nazionale del Lavoro of Italy, has spent the last year and a half without bail in a Federal penitentiary in Atlanta; he is scheduled to appear for the first time on Tuesday before the House Banking Committee, where he is likely to testify that his superiors in Rome and U.S. officials knew what he was doing. Yet there was far more to America's dangerous embrace of Mr. Hussein than the Lavoro loans.

I have been investigating the flow of arms to Iraq since 1989, when I was first told of C.I.A. involvement in the Lavoro money machine by a senior executive at the bank's Rome headquarters. Now, after four years of investigation, hundreds of interviews and the accumulation of thousands of pages of Government and banking documents from the U.S., Italy and Britain, it is clear that a far more serious abuse of power, including violations of law, occurred at the White House. Here are some of my findings:

- Off-the-books arms transfers to Iraq were kept from Congress from 1982 to 1987, in violation of the law.

- President Ronald Reagan personally asked the Italian Prime Minister in 1985 to help arm Iraq.

- The C.I.A. knew of and was involved in the flow of money through the Lavoro bank to Iraqi arms procurers, despite its statutory obligation to notify U.S. law-enforcement agencies of such activities.

- Despite the Bush Administration's flat denials, James Baker's State Department approved of U.S. exports that helped Iraqi efforts to develop nuclear weapons.

- Former White House officials say, and notes of their meetings confirm, that in 1991 Mr. Bush and Mr. Scowcroft joined in a prolonged and unusually aggressive effort to withhold documents from Congress.

It is already known that during the long war between Iran and Iraq in the 1980's, Washington tilted toward Mr. Hussein to staunch Iran's Islamic fundamentalism. But the American people, while suspecting that "we armed Iraq," have never known the breadth and depth of the illicit manner in which the Reagan and Bush Administrations helped create Saddam Hussein's war machine and bring on the trauma of the 1991 Persian Gulf war.

What has never been made public is that officials at the Reagan White House, working with the C.I.A. Director, William Casey, broke the law requiring that Congressional intelligence committees be notified of clandestine operations. They did this by directing the transfer of U.S. arms to Iraq in operations that were carried out by covert agents outside the Government, thus also evading arms-export control legislation.

Howard Teicher, a former member of the National Security Council staff,

Reagan and Bush armed Iraq, then tried to cover up.

told me he learned of this "dirty policy" while serving at the Reagan White House. He recalled that officials would pick up the phone and "clear" the deployment of plane loads of ammunition, spare parts, electronics and computers to Iraq.

Although the law required not only the notification of Congress but also an explicit Presidential finding that such a covert operation was in the interest of national security, Mr. Teicher said it was all done "off the books" — and with great regularity. "Yes, they were illegal," he said of the transfers. The public may have thought that the Iran-contra affair was something unique, he went on, but "it wasn't; it was just the one that went public."

Among those who knew about the operations, Mr. Teicher said, were William Clark, Mr. Reagan's second national security adviser, and Mr. Bush, then Vice President. Mr. Clark told me he had "no recollection" of any involvement; Mr. Bush declined to speak with me for the book.

So convinced were White House officials that they knew what was best, regardless of the law, that some clandestine shipments were even sent to Iraq straight from NATO weapons stockpiles, including the U.S. base at the Rhein-Main airport in Frankfurt.

The Reagan and Bush Administrations did not work alone as they sought to build up Iraq's military in the 1980's. The British played their part, with the knowledge of 10 Downing Street. So did the Italians. Last spring I spoke with Giulio Andreotti, the former Italian Prime Minister. He confirmed in a taped interview what two other eyewitness participants had told me about a March 1985 Oval Office meeting between Mr. Andreotti (then Foreign Minister), Bettino Craxi (then Prime Minister) and Mr. Reagan. I asked Mr. Andreotti if Mr. Reagan had sought help from Rome in arming Iraq. "Yes," he replied, "that is true."

The Italian Government then approved the sale of land mines that went by a circuitous route to Iraq, with help from the Lavoro bank's Singapore branch. But it was the Atlanta

New York Times
Sunday, Nov. 7

branch that really opened the financial floodgates after 1985. The supposedly secret Atlanta loans, which the Bush Administration claimed were masterminded by the branch manager, Mr. Drogoul, not only helped Iraq in its efforts to make missiles that could carry nuclear weapons; it even helped enhance Scud missiles.

A U.S. intelligence officer involved in monitoring the arms trade told me: "B.N.L.'s work with the Iraqis was known about for a long time. The C.I.A. knew about it, and so did the Defense Intelligence Agency."

Then there is the Jordanian connection. King Hussein, I learned through interviews with U.S. intelligence officers and former diplomats, served as a channel for covert U.S. arms transfers to Iraq. And his friend Wafai Dajani was a key Jordanian middleman among Baghdad, the Lavoro bank in Atlanta and the U.S. Government. Mr. Dajani denies having worked with the C.I.A., but Mr. Teicher said Mr. Dajani performed services for the C.I.A. He ended up as an unindicted co-conspirator in the Lavoro case after aides to Mr. Baker told the Justice Department in February 1991 that indicting him could damage U.S. relations with Jordan.

As for Mr. Drogoul, who has recently agreed to a plea bargain in the Lavoro case, he should be asked in Congress about a dinner with U.S. and Iraqi officials at a restaurant in Washington just before the 1988 Presidential election. There, he told me in a prison interview, he heard U.S. officials urge the Iraqis to sign up for more U.S.-backed loans because if Michael Dukakis were to defeat George Bush, "the Democrats will cut you off."

After Mr. Bush took office, he turned the previous tilt to Baghdad into a bear hug, approving a secret National Security Directive (N.S.D. 26) in October 1989 that stepped up military and financial aid to Saddam Hussein even though the Iran-Iraq war had ended more than a year before. Mr. Baker nonetheless rushed to implement the secret policy by brushing aside repeated warnings that Mr. Hussein was using U.S. loan guarantees in violation of the law.

Documents show that the Secretary of State not only pushed through a further \$1 billion in credits and kowtow to Mr. Hussein in the process; his State Department also approved exporting U.S. equipment and technology to Iraq even though it was clearly suggested in a November 1989 memo that the goods were likely to go into Mr. Hussein's nuclear weapons project. (The State Department wished away this obvious danger by recommending that each export license carry the words "no nuclear use" — as if the U.S. could control what was done with the equipment.)

In early 1990 — just 11 months before the United States went to war with Iraq, partly for the stated purpose of stopping Saddam Hussein from building atom bombs — a Baker aide drafted a letter to the Commerce Department to suggest that such concerns were not all that serious. The letter, prepared for Under Secretary Robert Kimmitt, cited "explicit Presidential authority" to improve trade with Iraq. And it said the Government's scrutiny of exports that could bolster Baghdad's nuclear ambitions "needs to be balanced by other considerations, including our duty to support U.S. exporters who can right our trade imbalance with Iraq and the broader needs of the overall relationship." One wonders how the American people would have felt during Operation Desert Storm if they had known about that attitude then.

After the war, Congressional investigators started looking into allegations of improprieties in pre-war dealings with Baghdad. The Bush Administration first tried to hang it all on Mr. Drogoul in Atlanta, and then aides to the President tried to thwart Congress. Starting on April 8, 1991, Mr. Scowcroft's legal adviser, Nicholas Rostow, joined the White House counsel, Boyden Gray, and lawyers from the C.I.A., the State and Commerce Departments and other agencies in a series of meetings that devised ways to withhold Iraq-related documents from Congress for many months.

The mechanisms they decided upon marked one of the most robust assertions of White House prerogatives since the days of Richard Nixon. Even the language used by participants was reminiscent: a State Department official who attended the sessions recalled a "bunker mentality." A White House aide who took part in the meetings said there was a high level of discomfort about the process. "People were already suggesting a cover-up," he said. "Everybody was nervous."

Mr. Gray suggested bringing in Cabinet officials "to see the President" to discuss specific requests for documents from Congress. He told me that he didn't consider the process a cover-up and that he could remember Mr. Bush's becoming "involved personally" in only one decision. But three other participants at the spring 1991 meetings said the President and Mr. Scowcroft had been the driving forces behind the efforts to stop Congress from getting the documents. Handwritten notes from the meetings bear this out. "Protect," read one of the minutes. "Pres has decided to." Those lines were then crossed out and replaced with the notation "B.S. has decided to review EP": Brent Scowcroft has decided to review executive privilege. Other notes describe conversations between Mr. Scowcroft and Mr. Bush about specific documents that were being withheld. They report that the President was "very very mad."

Last year, when a Federal judge in Atlanta and the House Judiciary Committee demanded an investigation of the suspected abuse of tax-financed programs and U.S. export laws, and of attempts by the Bush Administration to obstruct justice and Congress, they were given the cold shoulder. As candidates, Bill Clinton pledged to get to the bottom of Iraqgate and Al Gore termed the whole business "worse than Watergate." This year Attorney General Janet Reno promised to look beyond the Lavoro case to determine if other wrongdoing occurred. Indeed, the first indictments of U.S. companies that helped to arm Iraq are said to be in the pipeline already.

There is a tendency to shrug off Government malfeasance on the ground that we are so inured to such behavior that it almost doesn't matter. Yet the story of Iraqgate goes well beyond policy blunders; it is a story of flagrant disregard for the law at the highest levels of Government. No matter how awkward it may be, the Clinton Administration needs to live up to its promises and broaden its investigation. The rule of law is not an expendable principle. □

WILLIAM SAFIRE

Is the Fix In?

WASHINGTON

George Bush privately assured Bill Clinton that he would not criticize the new President during the first year of his term. I cannot attribute that to any source, but trust me. And Mr. Bush has kept his word.

In what may be an unspoken quid pro quo, the Clinton Administration has moved to quash any revelations about Bush's Iraqgate scandal.

You remember Iraqgate: the White House corruption of Agriculture's loan guarantee program to slip foreign aid billions through an Italian bank to Saddam Hussein, which he used to finance his secret nuclear buildup. The Bush Justice Department sought to contain the scandal by pretending the Italian bank knew nothing of its Atlanta office's huge Iraqi dealings — despite suppressed C.I.A. evidence to the contrary.

During the '92 campaign, Al Gore accurately charged that "the C.I.A. reported to Secretary of State James Baker ... that Iraq was clandestinely procuring nuclear weapons" while State was urging more loan guarantees to appease the dictator. Candidate Clinton, asked if he would favor a special Iraqgate prosecutor under a new Independent Counsel Act, replied unequivocally: "Yes."

That was then. Last week, in Atlanta Federal court, Clinton Justice arranged for the local Banca Lavoro manager to cop a plea on three minor charges of what had been a 347-count indictment, thereby blocking full disclosure of Rome's corrupt involvement — with guilty knowledge of U.S. officials — in a public trial.

John Hogan, Attorney General Janet Reno's longtime assistant in Miami, is the prosecutor who insists that the bank in Rome was innocent, over the plea bargainer's continued disputation. Federal Judge Marvin Shoob, the Sirica in this case, rejects Mr. Hogan's contention as "absurd ... never-never land." He sees a "wider-ranging sophisticated conspiracy that involved B.N.L.-Rome ... and the Governments of the U.S., England, Italy and Iraq."

But Ms. Reno's man, who joined Justice on June 7, has conducted what she falsely calls "a thorough independent investigation," resulting in "no reason to change our opinion."

Thus Clinton appointees at Justice have closed ranks with prosecutors and fixers desperate not to be brought before a grand jury by a truly independent counsel. Bush Justice appointed the lawyer for Sad-

dam's main arms purchaser as U.S. Attorney in Atlanta; Clinton Justice is appointing a lawyer from King & Spalding, B.N.L.'s law firm, who previously worked on the case as a prosecutor to be U.S. Attorney there now.

Reno is unconcerned at how her assertion of B.N.L.-Rome's innocence bolsters the Italian bank's claim against the U.S. for \$380 million of the loans to Saddam that James Baker persuaded Agriculture's Clayton Yeutter to guarantee. If the Criminal Division holds that Rome was victimized, shouldn't the U.S. pay up? "Apples and oranges," Hogan tells me; that's the Civil Division's job.

Hogan is familiar with Italian suits, having once been accused of receiving stolen clothing in a Miami "hot suit" case; he earned a straight-arrow reputation by resigning as prosecutor despite his innocence.

But now he uses "ongoing investigation" to duck questions, despite St. Janet's claim of his work having already been "thorough"; it is patently not "Independent."

Did Hogan take testimony under oath from ex-Attorney General Dick Thornburgh about a White House meeting with Italian Ambassador Rinaldo Petrignani, directed by Rome to "raise the case to a political level"? Or ask the Criminal Division

Iraqgate claims Reno.

why an update on the B.N.L. investigation was prepared for the A.G. just three days before that meeting?

Did he convene a grand jury to examine the Oct. 26, 1989, memo to Secretary Baker, with attached talking points and Baker notations, showing how commodity credits were abused for Saddam's backdoor financing?

Is it not a blatant conflict of interest for him to close out the Atlanta case while purporting to investigate the Atlanta prosecutors on whose work he depended?

Reno's man sayeth not. No wonder we hear not a peep of criticism about Clinton from Bush; the former President and his men are being well protected. Congress should pass the Independent Counsel Act and demand it be used in this case. □

New York Times
Sept. 9, 1993

Government Denies Bush Armed Iraq

By NEILA L. LEWIS

Special to The New York Times

ATLANTA, Aug. 23 — A Federal prosecutor said in court today that the Clinton Administration had conducted an investigation and concluded that there was no conspiracy by President George Bush and senior aides to arm Iraq secretly and then cover up their actions.

The statement by John Hogan, special assistant to Attorney General Janet Reno, was greeted with skepticism bordering on outright disbelief by the Federal judge who has presided over the matter for nearly four years. Judge Marvin H. Shoob of Federal District Court said such a conclusion was only possible "in never-never land."

Judge Shoob said he believed there was strong evidence of a far-ranging conspiracy involving the governments of the United States, Italy and Britain to aid Iraq. He said the only way to find out what really happened would be the appointment of an independent prosecutor. But with the Clinton Administration's view of the case, as expressed today, it seems unlikely that would happen, and the case will soon simply come to a halt.

Backing up his sharp words, Judge Shoob refused to sentence to jail five of the six Atlanta bankers charged with making illegal loans to Iraq. The five had pleaded guilty to various felony counts, but Judge Shoob said he would not sentence them to jail because the Government's contention that they defrauded the parent bank in Rome was incredible.

Objections by Prosecutors

Prosecutors, led by Mr. Hogan, objected, saying the bankers were largely responsible for the secret loans. But Judge Shoob characterized them as merely "pawns and bit players in a far more wide-ranging conspiracy."

Today's sentencing was probably Judge Shoob's last action in the Iraq loan case and he lamented the fact that as a judge, he lacked the resources to pursue the case. He said there were too many circumstances that made it implausible that the conspiracy was a small one involving only the Atlanta bankers. "Smoke is coming out of every window," he said. "I have to conclude the building is on fire."

Both Judge Shoob's admirers and detractors say he is trying to play a role similar to that of Judge John P. Sirica in the Watergate scandal when he refused to accept answers by prosecutors that the misdeeds were restricted to a small group of low-level officials.

The case before Judge Shoob involves six former officials of the Atlanta branch of an Italian bank which was secretly used to finance nearly \$5 billion in arms purchases for Saddam Hussein. The prosecution of the Atlanta bankers is at the heart of the accusations that the Bush Administration covertly armed Iraq to appease Mr. Hussein and then sought to cover up that policy after Mr. Hussein's army invaded



Judge Marvin H. Shoob refused to sentence to jail 5 of 6 Atlanta bankers charged with making illegal loans to Iraq.

Clinton aides find no misdeeds by top Bush aides.

ed Kuwait in August 1990.

The officials of the Atlanta branch of the Banca Nazionale del Lavoro were charged by the Bush Administration with defrauding the parent bank in Rome after the Federal Bureau of Investigation raided the Atlanta office in August 1989. But at a tumultuous court hearing before Judge Shoob last September, it was disclosed that the Central Intelligence Agency may have known that the bank's senior managers were aware of the loans, and so could not have been defrauded.

Much of the speculation surrounding the case has been whether the Central Intelligence Agency and the Bush Justice Department sought to limit the investigation to the Atlanta bankers out of fear of embarrassing the White House or the Italian Government, which largely owns the bank.

Judge Shoob had complained in the past that he had been lied to by the intelligence agency and the Bush Administration.

Inquiry Was Promised

During the campaign, Mr. Clinton promised that he would have his attorney general make a fresh and thorough investigation of the allegations. Then they would decide whether to seek the appointment of an independent prosecutor.

The comments today by Mr. Hogan suggest that Ms. Reno is unlikely to seek a special prosecutor in the case.

The sixth banker charged in the case, Christopher P. Drogoul, the man

ager of the Atlanta branch, is scheduled to go to trial on bank fraud charges on Sept. 8. Judge Shoob has acceded to a Government request that he step aside in that case and Mr. Drogoul will appear before a different judge.

A Justice Department spokesman, Carl Stern, said in Washington today that Mr. Hogan had carried out an "energetic review" of the case and reported his findings to the department's top officials.

Mr. Hogan told the judge that he had been working nearly full-time in re-examining the case since he joined the Federal Government. Before that, he was Ms. Reno's chief assistant in Miami where she had been Dade County prosecutor.

He said Ms. Reno told him to use the best talent available and not shrink from the truth. Mr. Hogan said he was now satisfied that the head office of the bank in Rome was not aware of the loans processed by the Atlanta branch, an assertion that brought sharp skepticism from Judge Shoob.

Judge Shoob also charged that the Government was inconsistent because it took a conflicting position on a related case in the United States Court of Claims.

At the same time that the Justice Department is prosecuting Mr. Drogoul for defrauding the Rome headquarters, it is refusing to pay a claim to the bank for \$340 million in the Court of Claims. The bank is seeking reimbursement for some money lost when Iraq defaulted on some loans made by Mr. Drogoul. The loans were guaranteed by the United States Government.

But the Government is arguing that it need not pay the claim because Mr. Drogoul was an officer of the bank and therefore made the loans under the auspices of the bank. Mr. Hogan told Judge Shoob he did not believe the positions were in conflict.

The law by which a special prosecutor could be appointed expired last year and Congress has been moving to reenact it. President Clinton said he supported renewing the law.

Senior Bush Administration officials were adamantly opposed to the concept of independent prosecutors. William P. Barr, the last attorney general under President Bush refused to name a special prosecutor in the case, instead asking a former Federal judge, Frederick B. Lacey, to conduct what he said was an independent investigation within the Department.

Judge Shoob had criticized the Lacey report which was issued last December and found no wrongdoing and no reason to appoint a special prosecutor. When Randy Chartash, one of the prosecutors today offered the Lacey report to dispute Judge Shoob's assertions, Judge Shoob was incredulous.

He said that, "If Judge Lacey had investigated the Teapot Dome scandal," he said referring to the 1922 scandal which almost toppled President Warren G. Harding, "he would have given out a medal instead of a ... sentence."

8/24/93
Iraq/Clinton Admin
Bush Admin
BNC
NYT

ROME BANK LINKED TO ATLANTA LOANS

U.S. Judge Says C.I.A. Papers
Show Home Office Knew
Of Funds for Iraqis

By MARTIN TOLCHIN

Special to The New York Times

ATLANTA, Sept. 29 — A Federal judge said today that raw, classified Central Intelligence Agency documents revealed that billions of dollars in illegal loans to Iraq made by the Atlanta branch of an Italian bank were known to the bank's top officials in Rome.

The disclosure by Judge Marvin H. Shoob of United States District Court came in a whispered conference at the bench with Government and defense lawyers during the sentencing hearing of Christopher P. Drogoul, a former manager of the Banca Nazionale del Lavoro. Judge Shoob later made the statement part of the court's written record.

Mr. Drogoul pleaded guilty last June to charges that he had masterminded a scheme to provide the loans without the knowledge or approval of the bank's headquarters in Rome. He has been in the Federal penitentiary in Atlanta while awaiting sentencing.

Judge Shoob's disclosure supports Mr. Drogoul's contention that there was actually no fraud because the Italian bank knew about the loans and was an accomplice in the scheme. But earlier this month Judge Shoob refused to allow Mr. Drogoul to withdraw his guilty plea. Mr. Drogoul's lawyer had argued that Mr. Drogoul pleaded guilty because he was represented by an inexperienced public defender and that he was coerced by the Government into making untrue statements about his guilt.

Questions About U.S. Role

The politically charged investigation has raised questions concerning the role of the Bush Administration in encouraging the loans to Iraq. Congressional Democrats have asserted that the Administration not only was aware of the loans to Iraq but also encouraged them, sought to cover up its role and hindered the Government investigation. Democrats on the House Judiciary Committee unanimously sought the appointment of an independent counsel to investigate these charges, but William P. Barr, the Attorney General, denied the request, saying there was insufficient evidence to justify such an investigation.

In 1989 President Bush issued a directive urging Government agencies to forge closer ties to Iraq. This month, Representative Henry B. Gonzalez, a Texas Democrat and the chairman of the House Banking Committee, quoted directly on the House floor from an unclassified letter he received from the C.I.A. in late July 1991, indicating that the agency had some knowledge that officials of the Italian bank in Rome knew about the bank scandal before Mr. Drogoul was indicted in late February 1991. But Judge Shoob based his statement on raw C.I.A. reports, not the letter. He called earlier for an independent counsel to investigate the Government's role in the Iraqi loans.

The judge followed in Mr. Gonzalez' footsteps in putting classified C.I.A. documents on the public record. At the private bench conference, the judge told the lawyers for both the Government and Mr. Drogoul that "I spent a lot of hours going over the documents, and I have carefully reviewed the C.I.A. raw reports that were submitted, and I am not quite sure how to handle them, because my review of them, and I made some notes about it, indicate that they support the defendant's position."

"Three definitely do support the defendant's position, that B.N.L.-Rome was aware of what he was doing, and they also undermine the Government's position that this was a 'lone wolf' type operation," the judge said.

The judge also said the C.I.A. reports revealed that the loans were known by the international business community.

Gerrilyn Brill, the Acting United States Attorney here, observed that the documents were "given to you under condition they remain secret."

But the judge asked, "Why should they continue to be classified if they don't affect national security?"

A former top official of the Italian bank testified today that bank officials in Rome must have known of the illegal activities of the Atlanta branch.

Judge Shoob asked Luigi Sardelli, a former director of B.N.L.'s North American operations and a surprise witness, "Do you have an opinion on whether Mr. Drogoul could have made these loans without the knowledge of senior officials?"

"It could not have happened," Mr. Sardelli replied.

But pressed by Government lawyers, Mr. Sardelli provided no hard evidence to support his opinion.

In a long-awaited appearance, Mr. Drogoul himself took the witness stand late this afternoon, but had an opportunity to testify only on his background and the origins of the Iraqi loan program. The son of a French father and American mother, Mr. Drogoul testified that he had some problems with his former employer, Barclays Bank, but failed to specify what those problems were.

He said his Italian branch's first involvement with Iraq occurred in 1984, the result of a request from the Continental Grain Company for a \$13 million loan to Iraq. "We telephoned the regional office in New York and laid out the transaction," Mr. Drogoul said. "They telephoned Rome and called us back the next day." The loan was approved.

BUSH ATTACKED ON IRAQI POLICY

Senator Al Gore charged that President Bush's efforts to befriend Saddam Hussein in the years before Iraq invaded Kuwait led directly to an unnecessary war. Page A21.

NATION

Bank Loans Tied to Financing for Scud Missile Project

■ **Hearing:** For the first time, U.S. government publicly links aid provided by Atlanta branch manager to an Iraqi military program.

By DOUGLAS FRANTZ
TIMES STAFF WRITER

A ATLANTA—Loans from an Italian bank branch here paid for improving Iraqi scud missiles like the one that killed 23 American soldiers in the Persian Gulf War, a top federal investigator testified Tuesday.

The testimony came on the second day of a hearing for Christopher P. Drogoul, the Italian banker who made the loans. It marked the first time that the government has publicly described a specific military project financed by Iraq with \$5 billion in loans from the Atlanta branch of Italy's Banca Nazionale del Lavoro.

The disclosure raises the stakes in the case. If Drogoul's lawyer can convince the federal judge that the U.S. government knew of the loans, as he contends, the Bush Administration could face heavy political fallout from the case. However, if prosecutors succeed in portraying Drogoul as the scheme's lone mastermind, the judge

official in Iraq's worldwide arms procurement network and customer of Drogoul's, Habibullah Drogoul, on a tour of a military facility paid for with various projects paid for with BNL loans, according to Wade. One large room at the plant was filled with engineers and draftsmen, with drawings of the missile on the walls.

"The missile they were talking about was the al-Hosein, the improved version of the modified Scud B used against American forces in the Persian Gulf War," Wade said.

Wade described other military projects paid for with BNL loans but none were as deadly as the Scud. A version of the missile slammed into a barracks housing U.S. soldiers in Saudi Arabia on Feb. 25, 1991, killing 28 in the worst incident of the war for allied troops.

Wade said that Drogoul loaned Iraq another \$330 million between his visit to the missile plant and the discovery of the loan scheme in August, 1989.

The government continued to press its case that Drogoul was the mastermind of the loan scheme. In a written statement to his own lawyers in September, 1989, a month after FBI agents had raided the

bank here, Drogoul said that no one else within BNL was aware of the Iraqi lending. "I cannot state that the bank was aware of our activities, but there were tell-tale signs all over," he said.

In his testimony, Wade described a labyrinth of foreign and U.S. bank accounts through which Drogoul and the Iraqis successfully concealed his lending from BNL officials outside of Atlanta.

But Shook was skeptical when Wade testified that the scheme was so sophisticated that it could not be picked up by U.S. intelligence agencies monitoring Iraq's financial communications.

A key element in the government's case against Drogoul was the period in which loans to Iraq during a period in which no other banks in the world were willing to advance money to the financially troubled Middle East nation.

To prove the point, Wade said that investigators found only one other bank in the United States that made a commercial loan to Iraq in 1989 and 1990. And that loan was a fully secured, \$10-million transaction with 4% annual interest, he said. By contrast, he said, Drogoul provided Iraq with billions in unsecured loans at tiny

interest rates.

Wade cited a 1989 analysis by the U.S. Export-Import Bank called "The Mythology of Iraq," which concluded that Iraq was not a good credit risk and recommended against any further U.S. loans to Baghdad.

"The mythology is actually very good in dispelling some of the myths," Wade said. The testimony was at odds with statements by Bush Administration officials who have defended the decision to provide Iraq with an additional \$1 billion in loan guarantees since November, 1989.

Testifying before the House Banking, Finance and Urban Affairs Committee in May, now acting Secretary of State Lawrence S. Eagleburger and other officials said that Iraq had consistently repaid its U.S. debts.

But Wade said in the courtroom that, by 1989, Iraq was repaying loans only to creditors who provided new money. He said that Drogoul found himself in that bind earlier in 1989.

The Iraqis had asked for a new loan of \$1.1 billion and had started to withhold payments on earlier BNL loans until Drogoul approved the new package. The delays, Wade said, were "a reminder."

TRANSPLANTS: Survival Rates Up

Continued from A4

Superconducting Super Collider

- World's largest scientific instrument for the study of the fundamentals of matter.
- Ellis County, Tex. (around Marshalltown)

Texas site

Proposed \$8.25 billion federal scientific installation



Tailhook Report Is Expected to Detail

Allegation of Scud Project

Reno Aide to Lead New Probe of Iraq Ties Before Gulf War

By DOUGLAS FRANTZ
and RONALD J. OSTROW
TIMES STAFF WRITERS

WASHINGTON—The Justice Department, after months of scrutiny, has decided to open a broad new investigation into whether laws were broken by U.S. officials and American companies in arming Iraq before the Persian Gulf War.

The inquiry, which is being led by a special assistant to Atty. Gen. Janet Reno, raises the possibility of new criminal charges in a controversy that many skeptics thought had been dismissed by the Clinton Administration.

So far, one U.S. company has been charged and six

FROM SUNDAY EDITIONS

employees of an Italian bank have been convicted in connection with transactions that helped Iraq obtain billions of dollars worth of sensitive computers and weapon technology in the years before the war.

John Hogan, a longtime associate of Reno's when she was Miami's chief prosecutor, said that he and a team of prosecutors and investigators are examining whether U.S. export laws were violated by sales to Iraq and whether any government officials were involved in misconduct in arranging aid to Baghdad or covering it up after the war.

"I perceive my task to include looking at various investigations and prosecutions around the country to see if there are common threads that reveal criminal activity in conjunction with how Iraq was armed," Hogan said in an interview at his Justice Department office.

Along with examining sales by U.S. businesses, the

investigation will scrutinize the actions of some government officials under former President George Bush in providing assistance to Iraq before the war and concealing the extent of such aid after the conflict.

U.S. District Judge Marvin H. Shoob, a persistent critic of the Justice Department's handling of the Iraq investigation, called Hogan's inquiry a step in the right direction.

"I've met with Mr. Hogan, and I think he will do his best to ferret out the details and information concerning these complex matters," Shoob said. "However, I think you still need an independent counsel, with the resources and time to fully investigate the issues."

Justice Department officials said Hogan's inquiry does not rule out later efforts to appoint an independent counsel, who would enjoy more autonomy than would a typical federal prosecutor. The law establishing the independent counsel process was allowed to expire last year, but Congress is expected to consider renewing it later this year.

Former Atty. Gen. William P. Barr, who rejected congressional requests for an independent counsel in the case last year, declined to comment on the new inquiry. But Ira Raphaelson, a former key aide to Barr, said the Clinton Administration's investigation mirrors plans Barr had for examining Iraq-related matters through a task force of prosecutors and investigators.

"It would appear that Hogan's intention is the [same] mission of the task force," Raphaelson said.

During last fall's campaign, President Clinton promised a fresh and aggressive review of allegations that laws had been violated in executing the U.S. policy of assisting Iraq before the Gulf War. He said the results would determine whether an independent counsel was necessary.

However, Democrats in Congress have complained that the Administration has been slow to move on the Iraq

investigation. The impression of reluctance was underscored last month at a hearing in Atlanta before Judge Shoob.

The hearing was to sentence five former employees of the Atlanta office of Italy's Banca Nazionale del Lavoro. They had pleaded guilty to roles in a scheme to provide Iraq with \$5 billion in loans, some of which were used by Baghdad to buy weapon technology and improve Iraq's arsenal of Scud missiles.

Hogan surprised Shoob by saying that he had investigated the bank case and agreed with the Bush Administration's Justice Department that the Italian bank had not authorized or approved the loans by its Atlanta office. But Hogan was careful not to say that his inquiry had exonerated individual bank officials or any U.S. officials.

The Banca Lavoro case ended on Sept. 2 with the surprise guilty plea of the sixth defendant, former branch manager Christopher P. Drogoul. With the conclusion of the bank case, Hogan said, the investigation has turned to the broader inquiry into possible export violations and official misconduct.

"All the doors are still open in this investigation," said Hogan, who is devoting all of his time to the matter and reports directly to Reno.

At least 10 prosecutors and numerous investigators from the FBI and other agencies are conducting the inquiry out of an Atlanta office, which is overflowing with thousands of documents subpoenaed in connection with the Banca Lavoro case.

While part of the investigation involves transactions financed by Banca Lavoro, Hogan said, it will include examining actions of U.S. officials. He refused to identify any of the subjects or targets.

The Italian bank's tiny Atlanta office financed \$5-billion

Please see IRAQ, A7

Continued from A5

worth of commodity and technology purchases by Iraq between 1984 and 1989. After the Gulf War, United Nations inspectors discovered that some U.S. and European technology financed by Banca Lavoro had been used in Iraqi programs to develop nuclear weapons and other arms.

The only American company charged in an arms deal with Iraq to date is a division of Teledyne Inc., the Los Angeles-based defense contractor. But sources said Hogan's investigators are examining sales by other firms.

About \$1.9 billion worth of rice, grain and other goods sold to Iraq through the bank were guaranteed by a U.S. Agriculture Department program. Allegations have been raised that there were kickbacks and overcharges in those deals, and some are likely to come under investigation, according to the sources.

Investigators also will examine

actions by U.S. policy-makers, who have been accused by Democrats of deceiving Congress about U.S. aid to Iraq and trying to conceal the extent of that assistance after the war.

A British investigation into that country's policy toward Iraq has determined that businesses were quietly encouraged to sell Iraq arms and weapon technology despite a public policy of not providing defense products to the Baghdad regime.

Documents and testimony from civil servants have disclosed a concerted attempt by the British government to conceal the scope of defense sales to Iraq and to deceive Parliament about the relaxation of the guidelines against such sales.

Prime Minister John Major is expected to testify early next year in the British inquiry, and former Prime Minister Margaret Thatcher is scheduled to give testimony in December.

Iraq
BNL

LA Times
9/13/93

AS

Italian Pressure to Halt Investigation of Iraq Loan Fraud Cited

Bank Documents show that the Justice Dept. blocked U.S. officials from interviewing Rome officials.

By MURRAY WAAS
and DOUGLAS FRANTZ
Special to THE TIMES

WASHINGTON—The Justice Department blocked an attempt by federal investigators to travel to Rome to interview senior officials of an Italian bank that financed Iraqi arms purchases, after repeated complaints from the Italian government, according to documents and interviews.

The Italian ambassador met with high-level State Department officials and with top officials of the Justice Department, according to classified documents, to complain about the criminal probe of \$5 billion in loans to Iraq by the Banca Nazionale del Lavoro, which is owned by the Italian government.

The trip was halted by high-level Justice Department officials in Washington over the objections of prosecutors in Atlanta and officials of the Justice Department's criminal division after the Italians voiced their complaints, according to documents and a source who asked not to be identified.

The visit to Rome was important to a federal indictment of six officials of Atlanta branch of BNL, because the indictment charged that the bankers defrauded BNL by making the loans without the knowledge or authorization of superiors in Rome. If BNL officials in Rome knew of the scheme, there would have been no basis for a significant part of the indictment. Previous stories in *The Times* have shown that BNL officials appealed to U.S. officials to go slow

on the bank investigation. The newly obtained documents show that Italian government officials also pressured U.S. officials in late 1989 and early 1990.

Democrats in Congress have accused the Justice Department of delaying the BNL investigation to avoid damaging relations with Iraq before the end of Kuwait in August, 1990, and restricting the scope of the inquiry to avoid embarrassing the Italian government.

Attorney Gen. William P. Barr and prosecutors handling the BNL case in Atlanta have denied that political or foreign-policy considerations played a role in the investigation or indictments in the case. They have said repeatedly that no Rome officials knew of the loans.

Attempts to reach Justice Department officials and the Italian Embassy were unsuccessful. The disclosure of the Italian government's pressure comes as the political controversy over the

Administration's policy toward Iraq shows signs of heating up. Sen. Al Gore (D-Tenn.), the Democratic vice presidential candidate, is to make a speech today attacking the Administration's prewar dealings with the regime of Saddam Hussein and its alleged efforts after the Gulf War to conceal the extent of the assistance.

According to classified documents, Italian Ambassador Rinaldo Ossola and other Italian officials expressed concern over the BNL investigation to the Justice State departments. Including Abraham D. Sofaer, a former judge who was then the State Department's top lawyer.

At the time, federal agents were investigating the illicit loans to Iraq, some of which were guaranteed by the U.S. Agriculture Department's Commodity Credit Corp. program. A key issue in the investigation was whether officials

in Rome knew of the loans. The Italian government complaints were summarized in a memo prepared on April 2, 1990, for Robert M. Kimmitt, then undersecretary of state for political affairs. He was meeting the next day with Petrucci and the BNL issue was expected to be raised.

"Petrucci met with Judge Sofaer and Department of Justice officials to register serious government of Italy concern over the possible federal indictment of the state-owned BNL, whose Atlanta branch is involved in fraudulent loans to Iraq and purchases under a series of CCC guarantees," said the classified memo.

The State Department had approved the trip by investigators to Rome in January, 1990. But by the time of the Petrucci-Kimmitt meeting, the Justice Department had delayed the trip.

A February, 1990, Federal Reserve memo said the trip had been

blocked by then-Atty. Gen. Dick Thornburgh. Another Federal Reserve memo in April, 1990, complained that the investigation was being hampered by "interference from the Justice Department."

Internal Justice Department records show that the Atlanta prosecutors and investigators were still trying to get a final OK for the trip as late as May, 1990, but permission was not granted.

Arthur J. Wade, the senior investigator on the team, testified recently at a sentencing hearing for the former BNL branch manager in Atlanta that the trip was blocked by Justice Department officials in Washington.

But he said the bank officials sought by the investigators eventually came voluntarily to the United States to be questioned, so there was no need to make the trip.

Waas is a special correspondent and Frantz is a Times staff writer.

USA Today
11/8/93

Book alleges deeper U.S. 'Iraqgate' involvement

By Sam Vincent Meddis
USA TODAY

The "Iraqgate" scandal jumps back into public view this week with a congressional hearing and release of a new book on the U.S. government's shadowy dealings with Iraq.

The book, *Spider's Web: The Secret History of How the White House Illegally Armed Iraq*, claims the U.S. government directed covert weapons transfers to Iraq, starting with the Reagan administration in 1982, in an operation that "dwarfed" the Iran-contra

arms deals.

Further, author Alan Friedman contends the Bush administration turned a blind eye to CIA information concerning secret loans funneled to Baghdad from the Atlanta branch of an Italian bank.

Tuesday's House banking committee hearing will include the first congressional testimony by Christopher Drogoul, former manager of the Atlanta branch of Italy's Banca Nazion-

ale del Lavoro (BNL). "BNL loans helped build Iraq's clandestine nuclear weapons and missile pro-

grams," says committee Chairman Henry Gonzalez, D-Texas.

Drogoul's aborted 1992 federal trial — he pleaded guilty to wire fraud and false statements — caused political problems for Bush.

Drogoul denies Justice Department charges that he was the "lone wolf" in a scheme to funnel more than \$5 billion in unauthorized loans to Iraq. He is raising claims of a Bush administration attempt to cover up its complicity in the loans.

Friedman, a reporter with the *Financial Times* of London, hopes the book spurs new calls

for a special prosecutor.

The attorney general William Barr rejected those calls last year after former federal judge Frederick Lacey, appointed by Barr to investigate, found no criminal wrongdoing.

Dan Levin, Barr's former chief of staff, says he has seen no evidence so far to support "this absurd, ever-expanding conspiracy theory."

Paul McNulty, former communication chief in the Bush administration Justice Department, says if there was any Republican political pressure to cover up the affair, it surely

would have disappeared after Democrat Bill Clinton was elected president.

"Allegations keep getting made... but every time the allegations are examined, the facts do not support the allegations," McNulty says.

One thing on which McNulty and Gonzalez may agree: Drogoul's testimony, and how consistent it is with statements he made in the past to prosecutors, could be a "real test."

Drogoul, 44, who'll be sentenced later this month looks forward to testifying, says his lawyer, Robert Simels.



GONZALEZ: Committee chairman says Iraq's nuclear programs grew from BNL loans

Plea Agreement Withdrawn On Chief BNL Case Defendant

Judge Faults U.S. Probe of Italian Bank's Iraq Loans

By R. Jeffrey Smith
Washington Post Staff Writer

A federal judge in Atlanta yesterday approved a sudden government request to withdraw a plea agreement by the chief defendant in a bank scandal that involved billions of dollars in illicit loans to Iraq.

The unexpected development abruptly ended a prolonged sentencing hearing and set the stage for a trial of the defendant, Christopher P. Drogoul, sometime next year. The three-week hearing on Drogoul's sentence was marked by a series of embarrassing disclosures about the government's handling of the case, although administration officials said that had not been a consideration in the U.S. attorney's action yesterday.

Judge Marvin H. Shoob said as he voided Drogoul's plea agreement that he would grant a government motion for his own withdrawal from the case before the trial can begin. Shoob has repeatedly raised questions about the government's theory that Drogoul and his colleagues at the Atlanta branch of Italy's Banca Nazionale del Lavoro (BNL) were solely responsible for the scandal because senior Italian banking officials were ignorant of the branch's illicit loans to Iraq.

"I have concluded that the substantial financing of Iraq by BNL-Atlanta was well-known . . . in banking circles and by U.S. intelligence," Shoob said yesterday in explaining why he would agree to withdraw. "The failure of the U.S. investigators to conduct an investigation in Rome and Iraq . . . and to question knowledgeable persons available to them indicates an effort to absolve BNL-Rome of complicity in the Atlanta branch loans."

The senior U.S. attorney in the case, Gerrilyn Brill, rejected Shoob's characterization. But she explained that Drogoul's assertion in courtroom testimony Wednesday that his conduct was authorized by Rome—plus the "tremendous amount of public interest" in the case and repeated allegations of government wrongdoing—had all made it imperative "there be a conclusive determination of Drogoul's guilt" by trial.

"The results of our investigation, which we know to be thorough and painstaking, have shown that Drogoul was lying" in his testimony, Brill said. "We are prepared to prove that, but to do so will require that we call scores of witnesses."

Drogoul was facing a sentence of up to 390 years imprisonment for his guilty plea this summer to 60 counts of fraud and tax evasion in the scandal, which involved more than \$4 billion in illicit loans and loan guar-

antees and has been described as the largest bank fraud in U.S. history. The government, which had indicted Drogoul on 347 counts, had accepted the plea in exchange for a promise of Drogoul's cooperation that it later claimed was never fulfilled.

The government's decision to withdraw the plea agreement came one day after Drogoul read into the court record excerpts from an internal BNL file reporting concerted efforts in 1990 by the bank's headquarters in Rome to lobby senior Bush administration officials against any bank indictment. In response to the previously undisclosed contacts, former attorney general Dick Thornburgh and other officials involved denied any wrongdoing.

According to the BNL report, which was obtained by The Washington Post from a U.S. government source, the Italian government, which owns BNL, was extremely worried in the spring of 1991 that the Justice Department believed the bank was criminally involved. It consequently sought opportunities "to intervene tactfully at political levels" in Washington, partly through the Italian ambassador, Rinaldo Petrignani, the report stated.

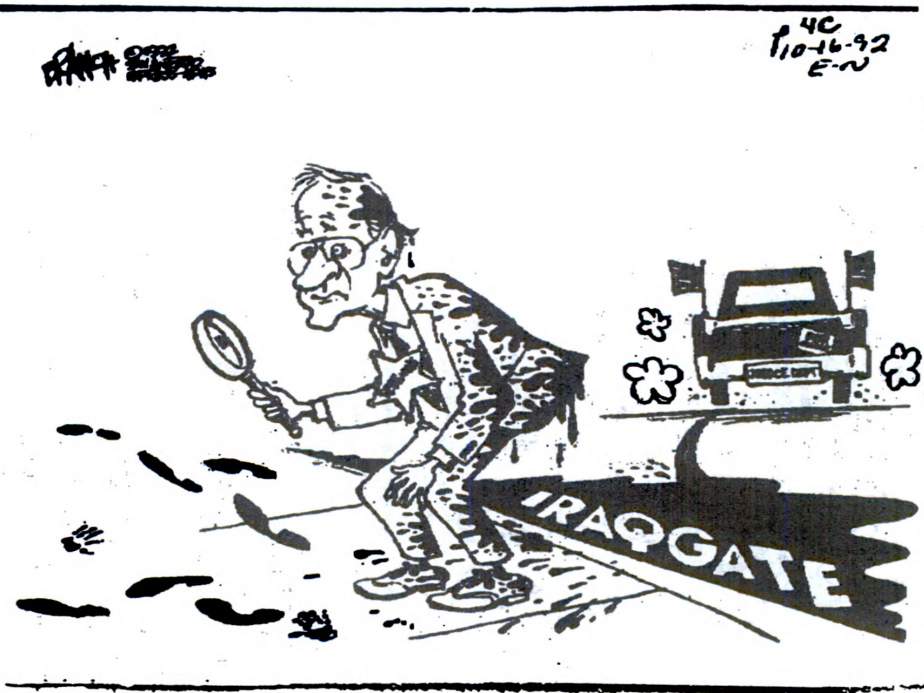
The bank also hired a team of prominent lawyers, including former U.S. attorney general Griffin Bell, former secretary of state William P. Rogers, and the head of the Justice Department's criminal fraud division until shortly before an August 1989 raid on BNL's Atlanta branch, William Hendricks. Petrignani, who the report said advised the bank to hire Rogers, has since retired from diplomatic service and become a consultant to Rogers's law firm in Washington.

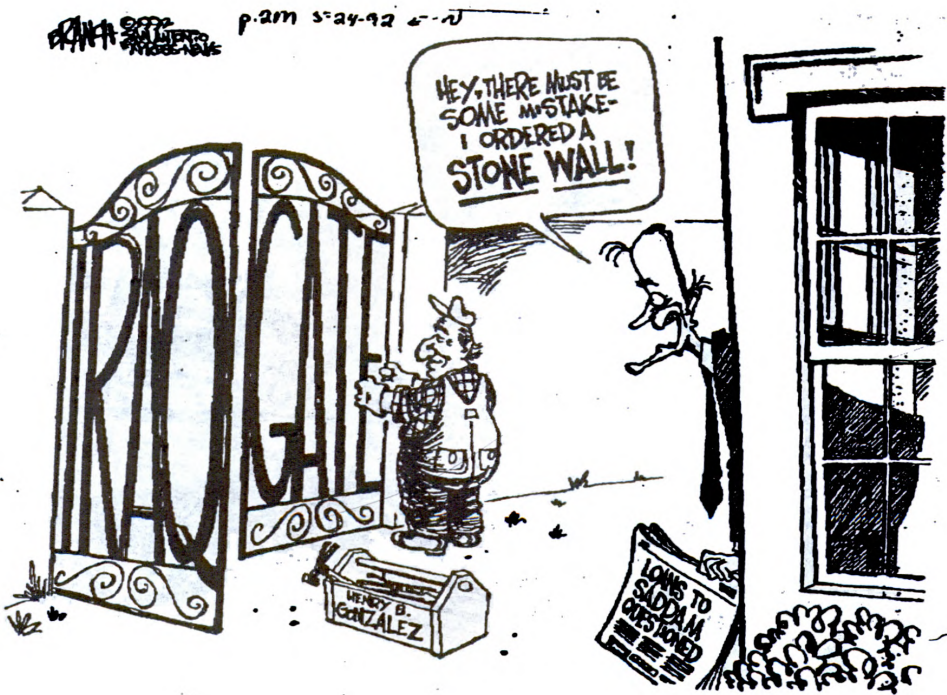
Among its other revelations, the internal BNL report contained a statement that one of the illicit loans by BNL's Atlanta branch "had already been signaled" to the bank's North American regional director by "the Secretariat of Foreign Loans Department"—an indication that some BNL officials in Rome may have been aware of the loan at the time it was made.

In an interview, Brill said the BNL report "in no way factored into the decision" to withdraw the plea. She also denied an assertion of Drogoul's attorney, Bobby Lee Cook, that the government's decision to withdraw the plea agreement was made by Justice Department officials in Washington.

"It was the prosecution team's call," said Paul McNulty, chief spokesman for the Justice Department. He said Attorney General William P. Barr was not informed of the decision until yesterday morning, shortly before Brill's appearance in court.

Staff writer Sharon LaFraniere contributed to this report.





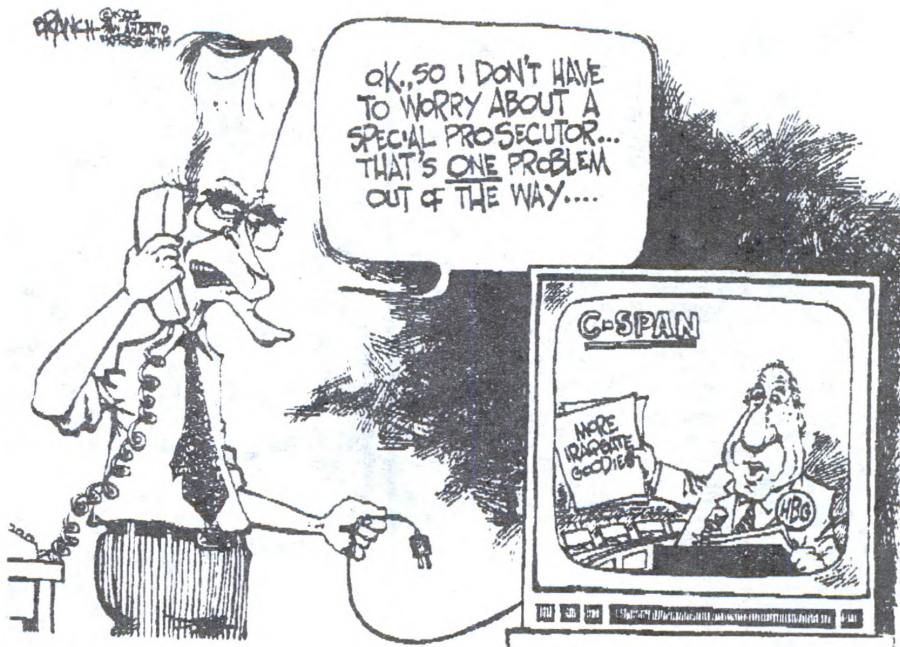
SAN ANTONIO LIGHT

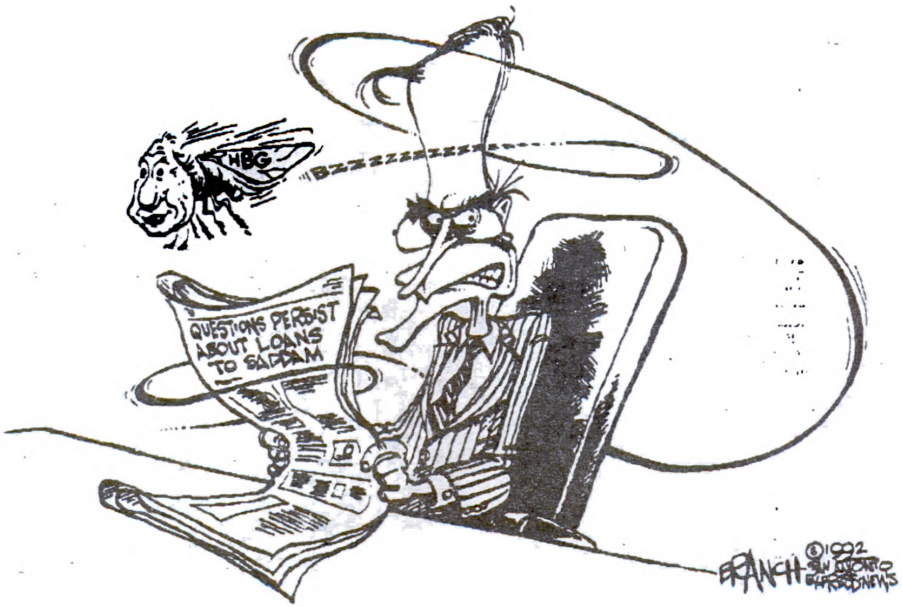
EDITORIALS



Tuesday, November 17, 1992





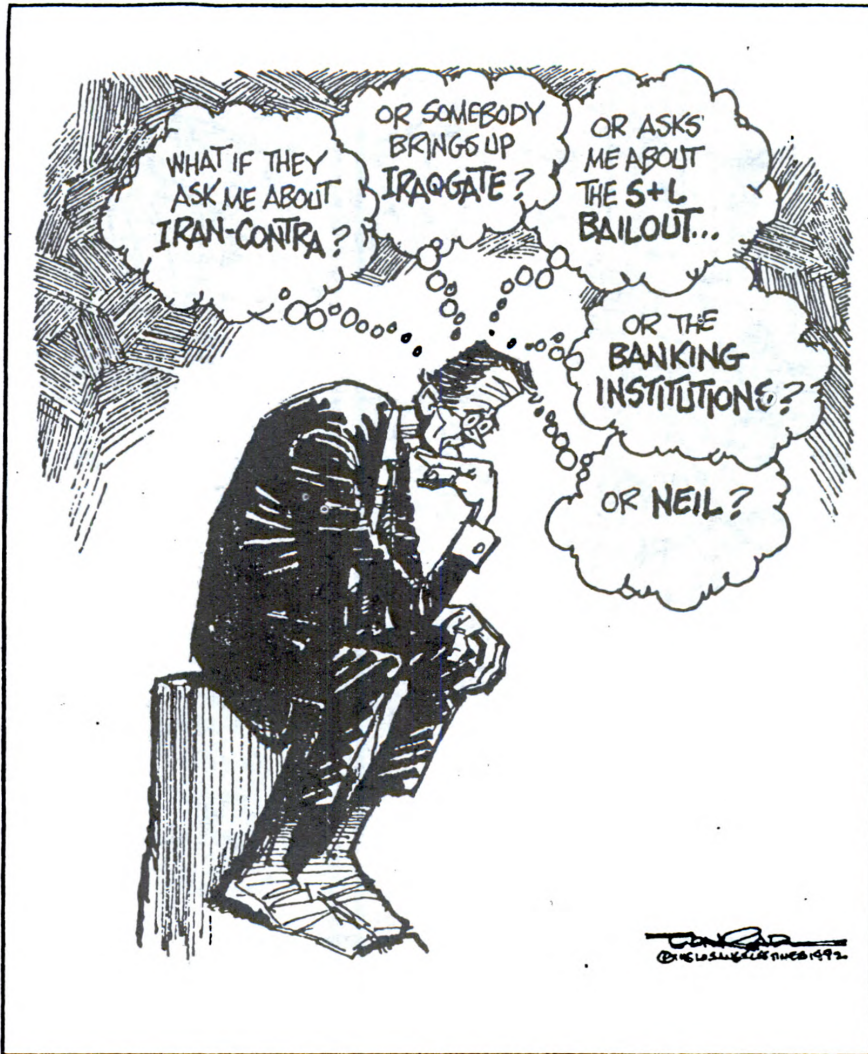




**"WE SEE NO NEED TO PURSUE THIS MATTER
ANY FURTHER"**



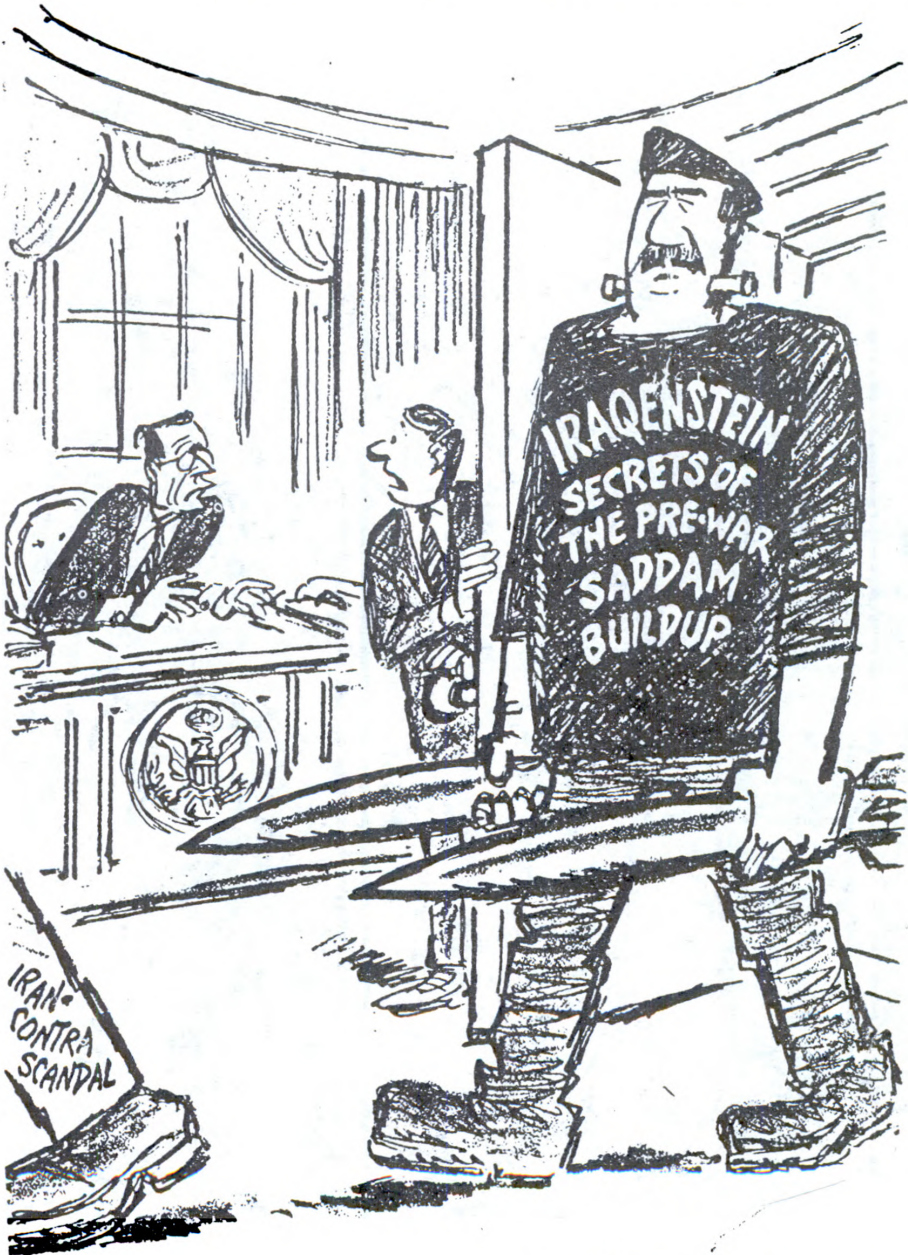
©1992 AVERBLOCK



"WOW-REMEMBER WHEN WE ONLY HAD GAPS?"



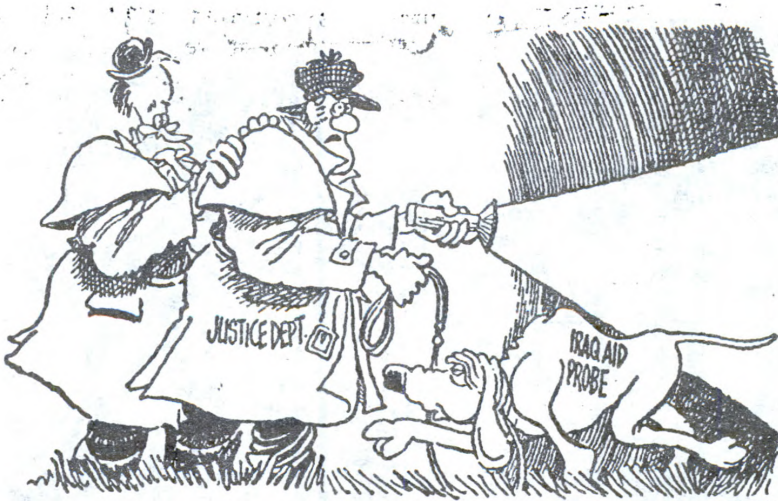
"THIS ONE IS ALL YOURS, CHIEF"



©1992 HERBLOCK

**"AND WITH ME, YOU NOT ONLY GET QUAYLE
BUT GOOD OLD JIM AS ACTING PRESIDENT"**





BY MARLETTE FOR NEW YORK NEWSDAY

"WE'VE LOST THE SCENT— CASE CLOSED!"

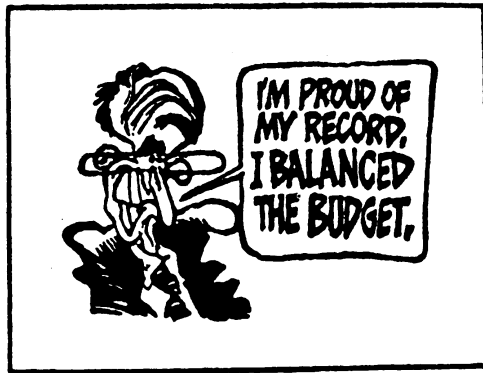


**"HANG TOUGH — ONLY A LITTLE WHILE
MORE TO GO"**



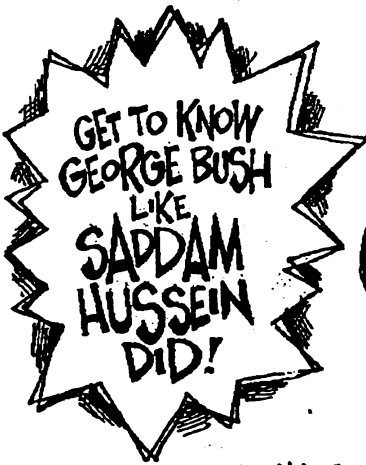
"H-O-T P-O-T-A-T-O-E"





"OH MY— THIS WAS SUPPOSED TO BE
HIS LONG SUIT"





GET TO KNOW
GEORGE BUSH
LIKE
SADDAM
HUSSEIN
DID!

HEAR THEIR INTIMATE
CONVERSATIONS FROM
BEFORE THE GULF WAR!

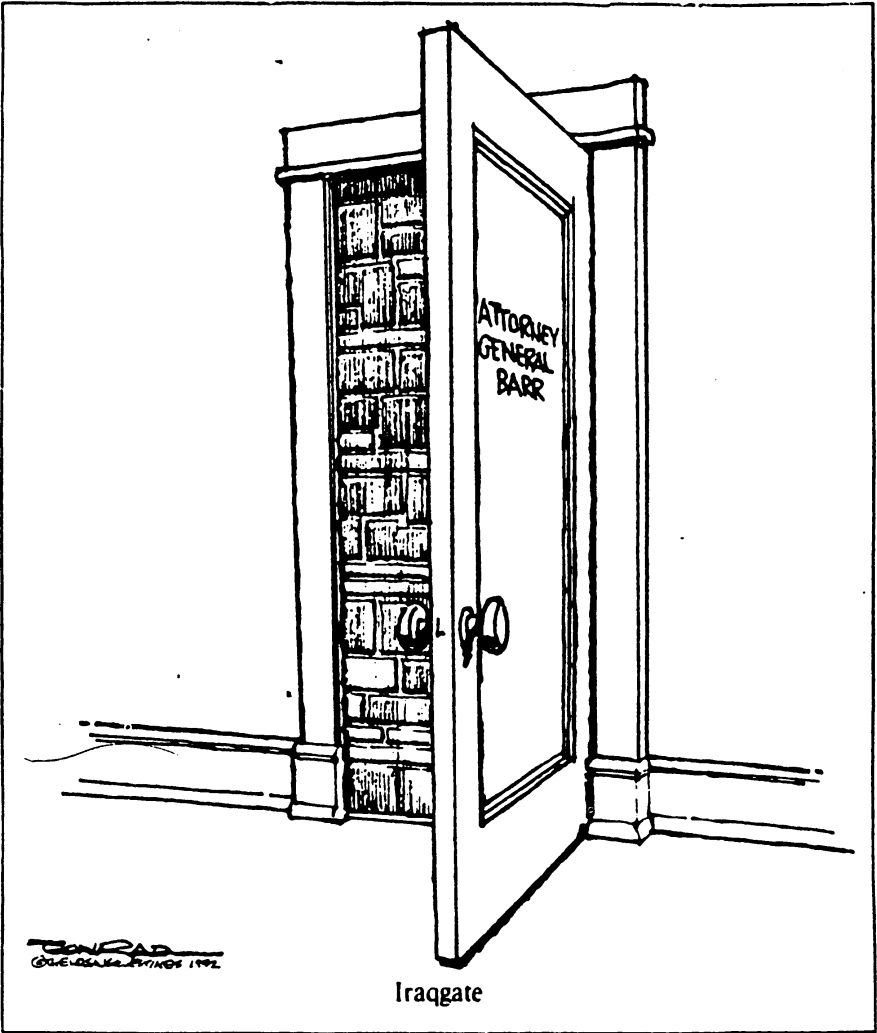
DIAL 1-900-BAD-LOAN!

THE SADDAM HUSSEIN HOT LINE!

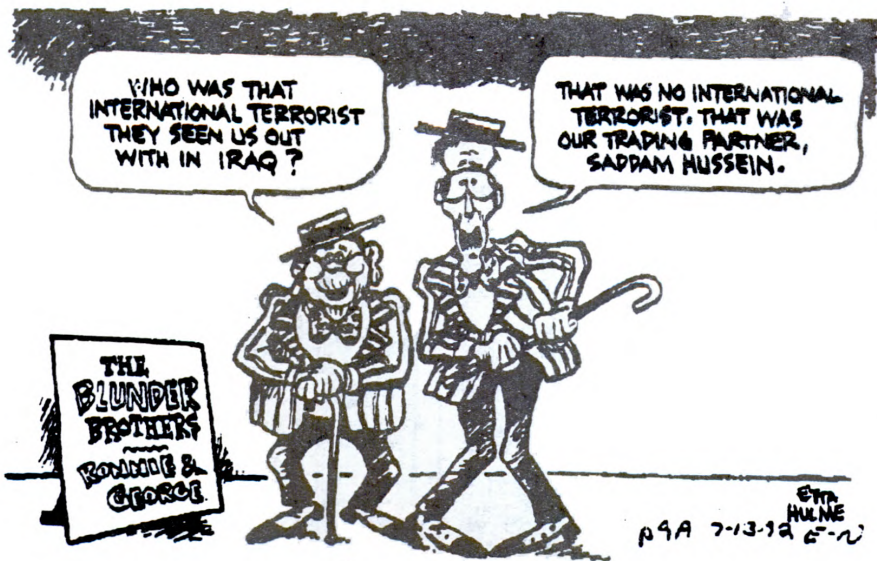


CRACKER

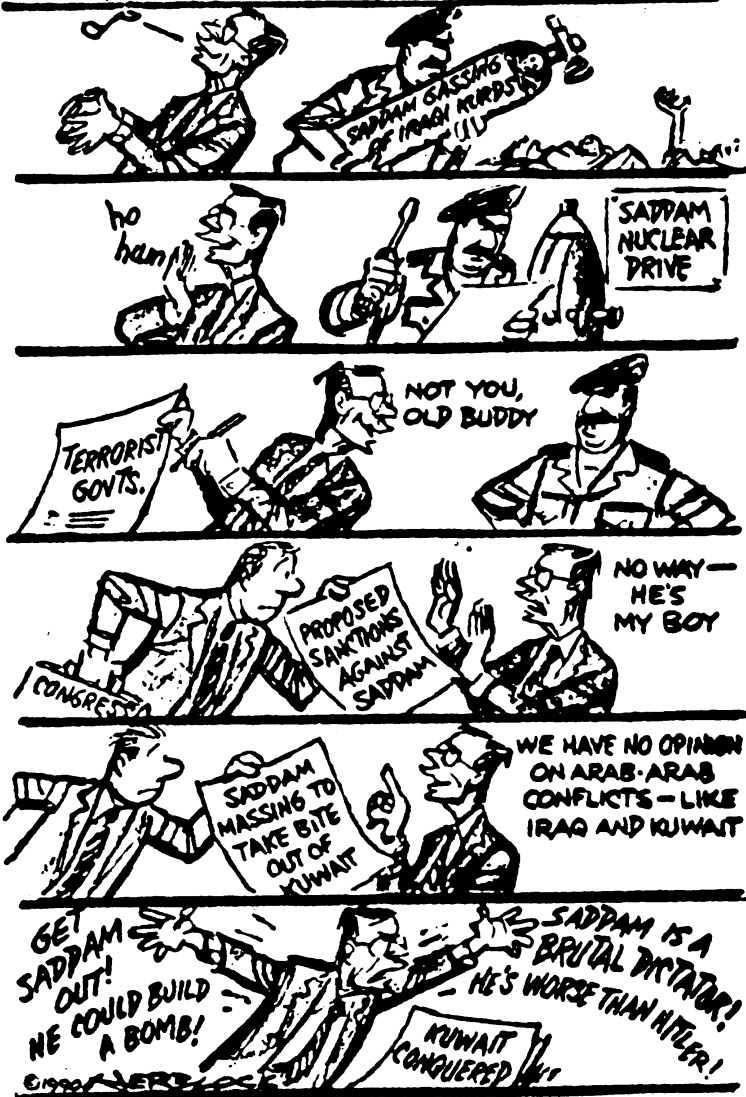




Iraqgate



THE GREAT DISCOVERY

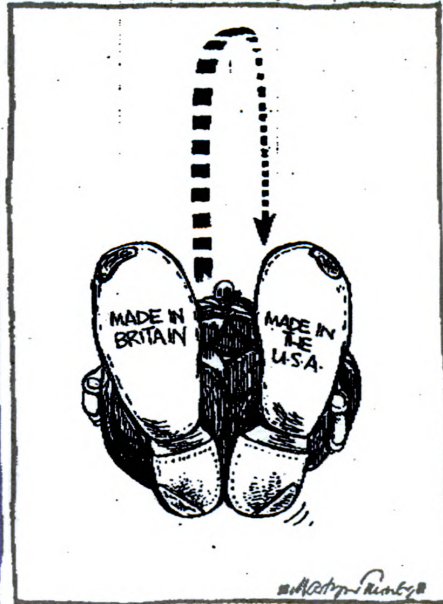


**"THEY'RE VIOLATING OUR SOVEREIGNTY!
WHAT DO THEY THINK WE ARE - KUWAIT?"**



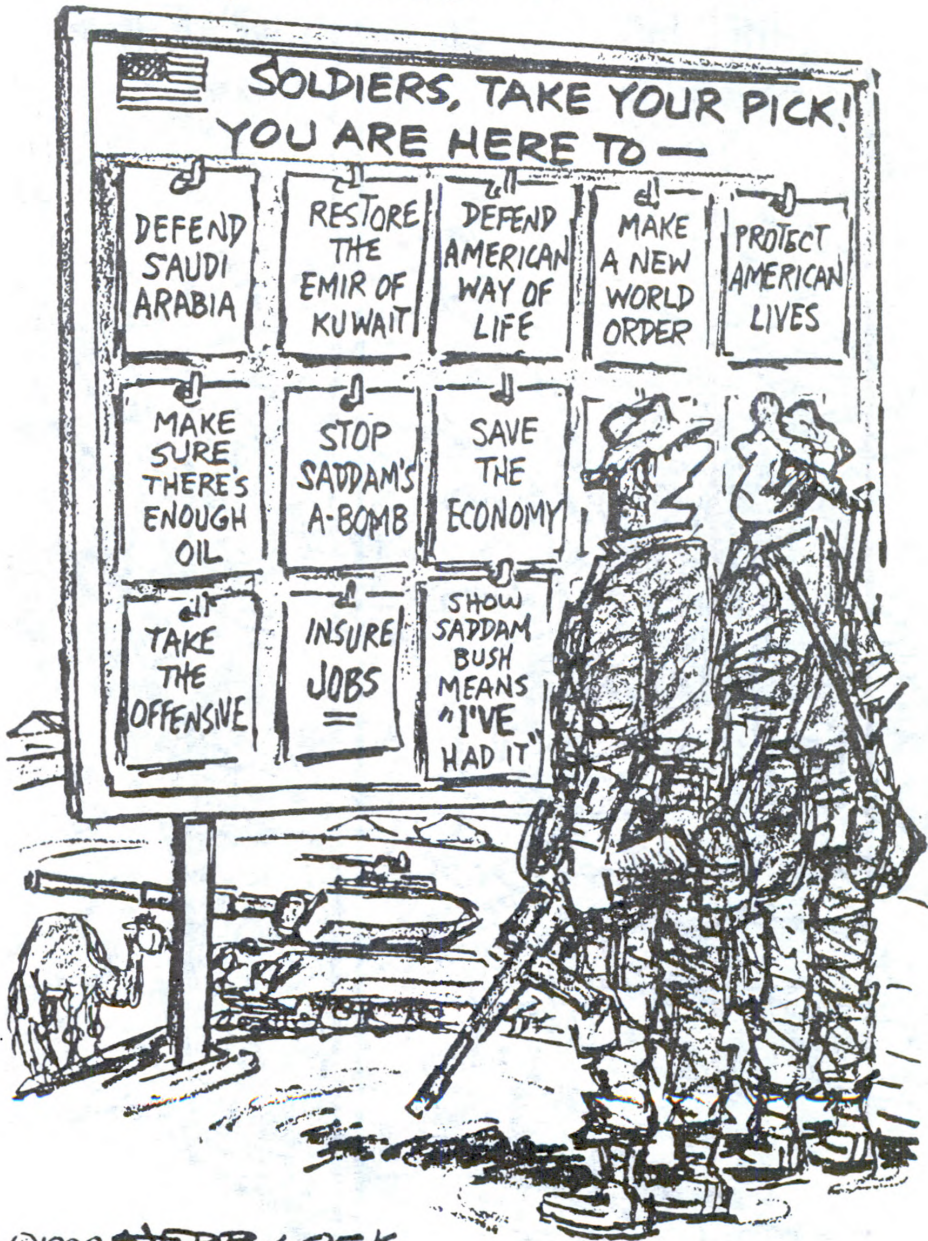


TURNER, THE IRISH TIMES, DUBLIN, IRELAND, C&WS





"MAN, HOW MANY COUNTRIES GIVE YOU
THIS FREEDOM OF CHOICE?"



"THE LATEST IS WE'RE GETTING TWO MORE DIVISIONS,
ANOTHER VISITING HIGH-LEVEL OFFICIAL, AND
THREE MORE REASONS WHY WE'RE HERE"





BY JIM BORGMAN FOR THE CINCINNATI ENQUIRER

"BUSH'S POLLS ARE DOWN! QUICK, HEAD FOR THE BUNKERS!!"

